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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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Tuesday, October 2, 1990

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loans, Alter Ego

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: This final rule amends the alter ego regulation relevant to the SBA business loan program to correspond with the alter ego rules applicable to its development company program. Under the final rule, an alter ego holding company is eligible for financial assistance under the business loan program if the required lease between it and the operating concern, used as collateral for the loan, includes options exercisable exclusively by the operating concern and the balance of the alter ego regulation's requirements are met. The effect of this final regulation is to relieve affected borrowers from paying expensive recordation fees which might apply to long term leases without options.

EFFECTIVE DATES: October 2, 1990.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, telephone (202) 653–6574.

SUPPLEMENTARY INFORMATION: On May 3, 1990, SBA published a notice of proposed rulemaking in the **Federal Register** (55 FR 18614) in which it proposed to allow the alter ego real estate holding company to be eligible for financial assistance if the required lease between it and the operating concern, used as collateral for the loan, includes options exercisable exclusively by the operating concern. No comments were received by the end of the comment period on July 2, 1990. Accordingly, the regulation is being amended as proposed.

In order to be eligible to receive financial assistance under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), a real estate holding company or alter ego must, among other things, pledge as collateral the lease of the property between it and the operating concern, and such lease must have a remaining term at least equal to the term of the loan. This requirement may be found at § 120.101–2(e)(6) of SBA regulations (13 CFR 120.10–2(e)(6)). A similar requirement is contained in the regulations affecting loans by development companies (see 13 CFR 108.8(d)(5)).

In several states a lease in excess of 5 years must be recorded, and the recordation fee can be expensive. On March 12, 1990, SBA amended the above regulation affecting development companies (55 FR 9110) so that the lease may include options exercisable solely by the operating small business concern so long as the lease and the options together do not exceed the term of the loan. The amendment of the development company regulation permitted the lease to be divided into shorter option periods which will not require recordation.

Since there is no reason for the rules on alter ego loans in the development company area to be different from the rules affecting business loans, the SBA is amending the regulation on business loans to bring it in conformity with the development company regulation. Thus, in a 7(a) business loan to an alter ego real estate holding company the lease between the alter ego and the operating small business concern could include options exercisable exclusively by such small business concern. All other provisions of the alter ego regulations would remain unchanged. This final regulation would relieve affected borrowers from paying expensive recordation fees which might apply to long term leases without options.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this rule will not have a significant impact on a substantial number of small entities. SBA certifies that this final rule does not constitute a major rule for the purposes of Executive Order 12291, since the change is not likely to result in an annual effect on the economy of $100 million or more. SBA estimates that no more than $10 million of alter ego business loans would be made where the lease term plus options equal the term of the loan. The rule does not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

This final rule does not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 120

Loan programs-business, Reporting and recordkeeping requirements, Small businesses.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634 (b)(6)), SBA amends part 120, chapter I, title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.101–2(e)(6) is revised to read as follows:

§ 120.101–2 Type of business.

* * * * *

(e) *Lending or Investment, "Alter Ego".*

* * * * *

(6) It must pledge the lease (including options exercisable exclusively by such operating company) between it and the operating company having a remaining term at least equal to the term of the loan and a lien on the property itself as collateral for the loan.

* * * * *

(Catalogue of Federal Domestic Assistance Programs, No. 59.012, Small Business Loans)

Dated: July 23, 1990.

Susan Engeleiter,
Administrator.

[FR Doc. 90–23204 Filed 10–1–90; 8:45 am]
BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-68-AD; Amdt. 39-6757]

Airworthiness Directives, Aerospatiale Model ATR42-300 and ATR42-320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Areospatiale Model ATR42 series airplanes, which currently requires the addition of a relay to the propeller brake control unit to maintain the electrical power supply, and replacement of the push button switch with a two-position mechanical switch. This amendment requires the installation of a new brake and modification of the propeller brake control system. Additionally, this amendment revises the applicability to specify that the Model ATR42-300 and ATR42-320 series airplanes are the models affected. This amendment is prompted by reports of electrical problems causing the brake to engage prior to command. This condition, if not corrected, could lead to overheating of the propeller brake and damage to the engine.

EFFECTIVE DATE: November 9, 1990.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 88-14-06 R1, Amendment 39-6202 (54 FR 18274, April 28, 1989), applicable to all Aerospatiale ATR42-300 and ATR42-320 series airplanes, to require the installation of a new brake and modification of the propeller brake control system, was published in the **Federal Register** on May 8, 1990 (55 FR 19083).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the rule, but recommended that the compliance time for installation of the new brake and modification of the brake control system be reduced from the proposed 180 days to 90 days. The FAA does not concur with the commenter's recommendation. The FAA has determined that the proposed compliance time of 180 days is appropriate in consideration of the safety aspects addressed, the average utilization rate of the affected operators, the practical aspects of an orderly modification of the fleet during regular maintenance periods, and the availability of required modification parts. The affected operators always have the option to accomplish the required modifications at an earlier date.

Since the issuance of the Notice, Aerospatiale has issued: Revision 3 to Service Bulletin ATR42-61-0005, dated March 15, 1990, and Revision 4, dated June 19, 1990; Revision 2 to Service Bulletin ATR42-61-0022, dated June 15, 1990; and Revision 2 to Service Bulletin ATR42-61-0023, dated March 15, 1990. These revisions clarify the procedures for installing the new brake and modification of the propeller brake control system. The final rule has been revised to include the latest revision to these service bulletins as appropriate sources of service information.

Paragraph H. of the final rule has been revised to specify the current procedure for submitting requests for approval of an alternate means of compliance.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted above. The FAA has determined that these changes will neither increase the economic burden on any operator, nor increase the scope of the AD.

It is estimated that 56 airplanes of U.S. registry will be affected by this AD, that it will take approximately 238 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The required modification kits will be supplied to the operators at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $533,120.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6202 (54 FR 18274; April 28, 1989), AD 88-14-06 R1, with the following new airworthiness directive:

Aerospatiale: Applies to all Model ATR42-300 and ATR42-320 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent the propeller brake from overheating and causing damage to the engine, accomplish the following:

A. Within 100 hours time-in-service after May 29, 1989 (the effective date of AD 88-14-06 R1) for airplanes listed in Aerospatiale Service Bulletin ATR42-61-0013, Revision 1, dated December 8, 1987, modify the propeller brake electronic control wiring, in accordance with this service bulletin.

B. Within 100 hours time-in-service after May 29, 1989 (the effective date of AD 88-14-06 R1), for the airplanes listed in Aerospatiale Service Bulletin ATR42-61-0014, Revision 2, dated November 15, 1988, modify the propeller brake control unit, in accordance with this service bulletin.

C. Within 100 hours time-in-service after May 29, 1989 (the effective date of AD 88-14-06 R1), for the airplanes listed in Aerospatiale Service Bulletin ATR42-61-0010, Revision 3,

dated December 19, 1988, replace the pushbutton switch with a two-position mechanical switch, in accordance with this service bulletin.

D. Within 180 days after the effective date of this AD, install a new brake control unit in accordance with Aerospatiale Service Bulletin ATR42-61-0005, Revision 2, dated January 2, 1990; Revision 3, dated March 15, 1990; or Revision 4, dated June 19, 1990.

E. Within 180 days after the effective date of this AD, install a modified propeller brake in accordance with Aerospatiale Service Bulletin ATR42-61-0022, Revision 1, dated September 25, 1989, or Revision 2, dated March 15, 1990.

F. Within 180 days after the effective date of this AD, modify the propeller brake indicating logic, in accordance with Aerospatiale Service Bulletin ATR42-61-0023, Revision 1, dated December 1, 1989; or Revision 2, dated March 15, 1990.

G. As an alternative to paragraphs A through F. of this AD, operators may remove the propeller brake from the airplane in accordance with Aerospatiale Service Bulletin ATR42-61-0016, Revision 1, dated September 1, 1988.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note.—The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manger, Standardization Branch, ANM-113.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment supersedes Amendment 39-6202, AD 88-14-06-R1.

This amendment becomes effective November 9, 1990.

Issued in Renton, Washington, on September 14, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

FR Doc. 90-23214 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-49-AD; Amdt. 39-6756]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires penetrant inspection and proof pressure testing of the engine bleed air crossover ducts, and repair or replacement, as necessary; and a one-time stress relieving of the duct welds. This amendment is prompted by reports of cracked or ruptured ducts which have resulted in damaged aircraft components, air turnbacks, and other significant interruptions to scheduled service. This condition, if not corrected, could lead to failure of the crossover manifold ducting which, in turn, could result in damage to the air conditioning packs, wing fairing panels, and/or electrical wiring.

EFFECTIVE DATES: November 9, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mahinder K. Wahi, Systems and Equipment Branch, Seattle Aircraft Certification Office, ANM-130S; telephone (206) 227-2673. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of Federal Aviation Regulations to include an airworthiness directive, applicable to certain Boeing Model 747 series airplanes, which requires inspection, testing, and repair or replacement, as necessary, and stress relieving of the engine bleed air crossover ducts, was published in the **Federal Register** on May 9, 1990 (55 FR 19271).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America, commenting on behalf of its members, requested that the proposed compliance period be changed to accommodate the required inspection and proof pressure test during a "D" check (at next D-check visit, not to exceed December 31, 2000). The FAA does not concur. The proposed time was calculated as 1,850 flight cycles for the initial inspection, plus 3,000 additional flight cycles for the stress relieving procedure. This totals a compliance time of 5,850 flight cycles or approximately 5-½ years based on average air carrier aircraft utilization data. This is adequate even for "D" check scheduling.

One commenter, a foreign operator, requested that the rule be revised to require that inspection and stress relieving be conducted only at ducts A1 and A16 (locations). Inspection should be optional for other ducts, since only A1 and A16 are located near wire bundles of adjacent systems. The FAA does not concur. Since issuance of the Notice, two more incidents of crossover duct failures have occurred involving duct locations A10, A13, A14, and A15, causing extensive damage to adjacent ducts, support structure, air conditioning wiring, center wing panel, air conditioning access door, and the fiberglass panel between the air conditioning compartment and the wheel well.

This commenter also requested that the economic impact analysis be revised to include the cost of extra shipsets to be purchased, the shop cost, the scrap cost, the heat treatment cost, and the extra downtime due to revised compliance time. The FAA does not concur. The economic analysis is limited only to the cost of actions actually required by the rule. It does not consider the costs of "on condition" actions, i.e., "replacement, if necessary," since those actions would be required to be accomplished, regardless of AD direction, in order to correct an unsafe condition identified in an airplane and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations.

This commenter also suggested that a leak check every 3,000 hours and a visual check every 1,500 hours should be adequate in lieu of stress relieving, as these checks have revealed cracks and allowed detection of premature duct rupture. The FAA does not concur. While inspection may have worked for the commenter, stress relieving has been found to be much more effective. The commenter may apply for approval of its method as an alternate means of compliance to its airworthiness authorities.

The airframe manufacturer proposed the following changes:

1. Delete reference to "wing leading edge panels," since damage resulting from duct rupture in the crossover would be to the underwing fairing panels instead. The FAA concurs and the AD has been revised accordingly.

2. Revise the phrase, "conduct a penetrant inspection and proof pressure test" to "conduct a penetrant inspection, proof pressure test, and penetrant inspection again," to clarify the procedures specified in the referenced Boeing Service Bulletin 747–36–2078. The FAA concurs and the final rule has been revised to clarify this point.

3. Allow credit for inspection and testing already conducted in accordance with Service Bulletin 747–36–2078, Revision 1, dated June 15, 1989, prior to the effective date of this AD. The FAA concurs and has allowed 4,000 cycles since last inspection.

4. Conduct the repair or replacement of ducts in accordance with Service Bulletin 747–36–2078, Revision 2, dated August 16, 1990, since Revision 1, dated June 15, 1989, contained some incorrect duct part numbers for certain airplanes; the inspection, proof pressure test, and the stress relieving procedures are not affected by Revision 2. The FAA concurs and the final rule has been revised accordingly. The FAA has reviewed and approved Boeing Service Bulletin 747–36–2078, Revision 2, dated August 16, 1990, which merely corrects certain duct part numbers.

5. Approve as teminating action the replacement of all duct assemblies in accordance with Service Bulletin 747–36–2078, Revision 2, dated August 16, 1990. The FAA concurs and a new paragraph C. has been added which specifies such terminating action.

Paragraph D of the final rule has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 640 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 172 airplanes of U.S. registry will be affected by this AD, that it will take approximately 236 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators for the initial required action is estimated to be $1,623,680, and a similar amount for the terminating action.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, except Model 747–400, line position 002 through 707, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent damage to air conditioning packs, wing fairing panels, and/or electrical wiring as a result of failure of crossover pneumatic ducts, accomplish the following:

A. Prior to the accumulation of 5,850 flight cycles, or within 4,000 flight cycles since last inspection and testing in accordance with Boeing Service Bulletin 747–36–2078, Revision 1, dated June 15, 1989, or within the next 1,850 flight cycles after the effective date of this AD, whichever occurs later, conduct a penetrant inspection, proof pressure test, and penetrant inspection again to detect cracks or ruptures of the crossover ducts, in accordance with the Accomplishment Instructions, Items A. through F., J., and K. of Boeing Service Bulletin 747–36–2078, Revision 2, dated August 16, 1990. If cracks or ruptures are detected, prior to further flight, repair or replace in accordance with the service bulletin. The stress relieving procedure specified in Items G., H., and I. of the service bulletin may be accomplished in conjunction with the penetrant inspection and proof pressure testing required by this paragraph, and constitutes terminating action for the requirements of paragraph B. of this AD, for all crossover pneumatic ducts.

B. Prior to the accumulation of 3,000 flight cycles after accomplishment of the initial inspection required by paragraph A. of this AD, accomplish the following actions concurrently:

1. Conduct a penetrant inspection, proof pressure test, and penetrant inspection again to detect cracks or ruptures of the crossover ducts, in accordance with Items A. through F., J., and K. of the Accomplishment Instructions of Boeing Service Bulletin 747–36–2078, Revision 2, dated August 16, 1990. If cracks or ruptures are detected, prior to further flight, repair or replace in accordance with the service bulletin.

2. Conduct stress relieving of the crossover ducts in accordance with Items G., H., and I. of the Accomplishment Instructions of Boeing Service Bulletin 747–36–2078, Revision 2, dated August 16, 1990.

C. Replacement of all ducts in accordance with Boeing Service Bulletin 747–36–2078, Revision 2, dated August 16, 1990, constitutes terminating action for the requirements of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Inspector (PI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

This amendment becomes effective November 9, 1990.

Issued in Renton, Washington, on September 14, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-23213 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-183-AD; Amdt. 39-6759]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which requires a one-time inspection to locate discrepant flap/stabilizer position modules (FSPM), and modification, if necessary. This amendment is prompted by a report that it is possible to intermix certain FSPM on certain Model 767 series airplanes. An inappropriate intermix can result in the reduction of performance of the protection systems during takeoff and landing.

EFFECTIVE DATE: October 16, 1990.

ADDRESSES: The applicable service information may be obtained from The Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Frank vanLeynseele, Aerospace Engineer, Seattle Aircraft Certification Office, Systems & Equipment Branch, ANM-130S; telephone (206) 227-2671. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: It has been reported that the installation of a non-Model 767-300ER flap/stabilizer position module (FSPM) on a Model 767-300ER will result in a reduced altitude ground proximity warning system (GPWS) warning, and that the installation of a Model 767-300ER FSPM on other Model 767's will result in a takeoff configuration warning not being generated at flaps 25 (during takeoff). Thus, an inappropriate intermix of the FSPM could result in the reduction of the performance of the protection systems during takeoff and landing.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-27A0099, dated May 31, 1990, which describes procedures for inspecting the FSPM; Boeing Service Bulletin 767-27-0097, dated April 12, 1990, which provides instructions to modify the Model 767-300ER to ensure that an FSPM not intended for that model will not function; and Component Service Bulletin 285T0099-27-03, dated April 12, 1990, which provides instructions for modifying and renumbering the FSPM.

Since this condition is likely to exist on other airplanes of the same type design, this AD requires a one-time check of the FSPM to determine if the proper part has been installed, and a corresponding modification, if necessary, of P/N 285T0099-15 FSPM for the Model 767-300ER; and modification of the Model 767-300ER so that only the proper FSPM will function. These procedures are to be accomplished in accordance with the service bulletins previously described.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, line number 001 through 280, certificated in any category. Compliance required within the next 30 days after the effective date of this AD, unless previously accomplished.

To ensure that only the correct flaps/stabilizer position module (FSPM) will function in the airplane, accomplish the following:

A. Perform a one-time inspection to determine that the three FSPM's located in the P50 card file are the correct part number, in accordance with Boeing Alert Service Bulletin 767-27A0099, dated May 31, 1990.

B. For Model 767-300ER series airplanes: Modify the FSPM connector keying in accordance with Boeing Service Bulletin 767-27-0097, dated April 12, 1990.

C. Install FSPM P/N 285T0099-17 in accordance with Boeing Service Bulletin 767-27-0097, dated April 12, 1990.

Note.—FSPM P/N 285T0099-15 may be reworked and renumbered in accordance with Boeing Component Service Bulletin 285T0099-27-03, dated April 12, 1990.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note.—The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle Aircraft Certification Office.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to The Boeing Commercial Airplane Group, P.O. Box 3707, Seattle,

Washington, 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective October 16, 1990.

Issued in Renton, Washington, on September 20, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-23215 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-CE-08-AD; Amdt. 39-6711]

Airworthiness Directives; Cessna Model 180 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires installation of an instrument panel placard until the fuel tank primary vent is relocated behind the left wing strut on certain Cessna Model 180 airplanes. The FAA has received reports of fuel loss induced by syphoning due to a blockage of the primary over the wing fuel vent tube. These actions will preclude loss of fuel out of the alternate fuel vent hole opening and subsequent loss of engine power.

EFFECTIVE DATE: November 13, 1990.

ADDRESSES: Cessna Service Kit SK180-6, applicable to this AD, may be obtained from the Cessna Aircraft Company, Customer Services, P.O. Box 1521, Wichita, Kansas 67201. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-CE-08-AD, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Paul O. Pendleton, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209, telephone (316) 946-4427.

Discussion

Reports have been received over the years of Cessna Model 180 airplanes being susceptible to fuel syphoning due to inadvertent and/or undetected ice blockage of the primary over the wing fuel vent tube. A high number of fuel loss incidents have been reported. Cessna manufactured 2,488 Model 180 Series airplanes from 1953 through 1955 with an over the wing fuel tank vent tube. These vents were subsequently determined to be susceptible to ice accretion. Inadvertent or undetected ice encounters may block the fuel vent tube inlet resulting in fuel being syphoned out the alternate vent hole on the aft side of the fuel vent tube. As a result, the fuel gauges may be erroneous as the bottom of the fuel bladder may be lifted toward the top of the wing due to negative tank internal pressure.

In the mid 1956 model year production, the Model 180 fuel tank vent tube was relocated under the wing behind the left wing lift strut. This vent location was used through the most recent production of the light single engine series airplanes.

In 1963, the Cessna Model 180 series incorporated a second vent tube located behind the right wing lift strut. These dual primary fuel vents were utilized on all Cessna Model 180 series airplanes manufactured from 1963 through the most recent production.

The FAA has determined that there is a valid need to provide all remaining early Cessna Model 180 airplanes (approximately 1,000) with under the wing fuel tank vents. Some of the Cessna Model 180 airplanes manufactured with the single over the wing fuel vent were later equipped with Cessna service kits to relocate the vent behind the left wing strut. During 1956, Cessna offered Service Kit SK-180-6, which consisted of an exchange program to provide fuel tanks with nipples capable of accommodating the under the wing vent for the early Model 180 airplanes.

Subsequently in 1959, Cessna offered Service Kit SK 180-17A, which provided instructions and hardware to relocate the over the wing fuel vent tube-equipped airplanes to the under the wing vent location. The Cessna vent relocation kits were discontinued several years ago. Cessna has advised the FAA it is not practical to make the Cessna vent relocation kits available again. However, Cessna will provide the instructions to equip their Model 180 airplanes with an under the wing fuel vent. The detail parts can then be ordered and produced individually rather than as a boxed kit. The fuel bladder would have to be obtained from a source other than Cessna since Cessna is no longer able to procure it.

An Advanced Notice of Proposed Rulemaking (ANPRM) to amend part 39 of the Federal Aviation Regulations was published in the **Federal Register** on April 21, 1989 (54 FR 16127). This ANPRM included an AD requiring modification of the early Cessna Model 180 fuel vent system to prevent syphoning and undetected fuel loss. The ANPRM resulted from a review of accident and incident files and malfunction and defect reporting system records on these airplanes.

Interested parties were afforded an opportunity to comment on the ANPRM. Several questions about modifications to the airplane fuel vent system and operating procedures were asked. One commenter concurred with the proposal to require modification to the airplane fuel tank (bladder) vents. Several of the commenters stated they believed that the alternate vent hole in the fuel caps, which was required by AD 79-10-14R1, Amendment 39-5901 (53 FR 14784; April 26, 1988), should be sufficient if the alternate vent hole in the over the wing fuel vent tube became plugged. The FAA has determined that it is undesirable to rely totally on the vented fuel caps if the primary vent is so susceptible to an icing encounter. Recent accidents involving airplanes so equipped show that the negative pressure aft of the over the wing vent tube will syphon fuel and negate the benefits of the vented fuel cap.

Two of the commenters stated that they were in favor of using placards or Airplane Flight Manual Supplements to caution pilots on the susceptibility of the over the wing alternate fuel vent to syphon, which may be induced by ice obstruction of the forward facing primary opening in the over the wing fuel vent tube. The FAA concurred with these comments and believed that answering these questions about modifications to the airplane fuel vent system and operating procedures would better determine the need to improve the level of safety on the over the wing tube of these airplanes.

Subsequently, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on February 28, 1990 (55 FR 6999). The NPRM proposed that a placard and primary fuel vent relocation be accomplished. Interested parties were once again given the opportunity to comment, and seven comments were received. Five commenters were opposed to the proposed modification due to the time in service they had experienced with their airplanes without any significant fuel syphoning. The FAA does not concur and believes there could be potential fuel syphoning problems with all affected airplanes.

One commenter objected to the "500 hour time frame" but recognized the "potential problem". Six commenters believed that the $200.00 cost figure was not realistic and that the bladders might be damaged if they were removed for

the singular reason of complying with the AD. The FAA's intention was that 500 hours of operation on these "classic aircraft" would be enough time for the bladder to be replaced due to normal wear and that the $200.00 figure was intended to be the cost over and above the cost of normal bladder repair or replacement. However, the FAA has become aware, due to the comments received, that many of these 30 plus-year-old airplanes still have the original fuel bladders installed and they are considered airworthy. Therefore, in light of the comments received, the FAA has changed the final rule to agree with the comments proposing the use of the placard until the existing fuel bladders are replaced due to normal wear.

Also two comments referred to AD 83-13-01, Amendment 39-4672 (48 FR 29468; June 27, 1983), which requires a placard warning pilots of the possibility of fuel syphoning and bladder collapse due to leaking fuel caps on single under the wing primary fuel vent-configured Cessna 182 series airplanes. There have not been any reports of this problem on the existing Cessna Model 180 series airplanes equipped with the single under the wing vent. Therefore, at this time, the placard requirements of AD 83-13-01 are not considered applicable to single under the wing primary fuel vent-configured Cessna 180 airplanes.

Since the condition described is likely to exist or develop in other Cessna Model 180 airplanes of the same design, this AD requires installation of a caution placard on all Cessna Model 180 airplanes not equipped with an under the wing fuel vent and subsequent installation of an under the wing vent. The placard would caution the pilot about the possibility of fuel loss in the event of an inadvertent icing encounter. Regarding the fuel vent modification, Cessna advises that operators must obtain the Part Number (P/N) 0726000-13 fuel cell from a source other than Cessna since they are no longer able to procure bladder fuel tanks. Cessna also recommends that an operator may duplicate the Cessna Service Kits SK 180-6 by obtaining copies of the kit instructions from Cessna Customer Services. The detail parts can then be ordered and procured individually rather than as a boxed kit.

This would be true for those operators purchasing a new tank or desiring to convert their airplanes presently equipped with the P/N 0726000-13 fuel cell to the under the wing fuel vent configuration provided by SK 180-6. The FAA has determined that the overall majority of the affected airplanes are treated as "collectors items" and as such are not subject to repeated icing encounters. In addition, the nature of the fuel system modification is such that every consideration should be given to accomplishing the modification during other maintenance on the airplane. Therefore, the compliance time on the modification has been established when the left fuel tank is removed for any purpose.

The FAA has determined that there are approximately 1,000 airplanes affected by the adopted AD. The cost of inspecting, placarding, and later modifying the affected airplanes per the adopted AD is estimated to be $200.00 per airplane. The total cost is estimated to be $200,000. The cost of compliance with the adopted AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Cessna: Applies to Model 180 airplanes (Serial Numbers 30000 thru 32487) equipped with over the wing (cabin) primary fuel vents, certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To preclude undetected fuel loss on airplanes equipped with an over the wing (above cabin top) fuel vent tube, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, fabricate and install the following placard on the instrument panel in full view of the pilot using letters at least ⅛ in. high: "CAUTION. UNDETECTED FUEL LOSS AND ERRONEOUS FUEL GAUGING MAY OCCUR AFTER AN INADVERTENT ICING ENCOUNTER."

(b) When the left fuel bladder is removed for any purpose, modify or install a fuel tank (bladder) equivalent to Cessna Part Number 0726000-13 (fuel vent in the outboard end of the fuel tank container), and relocate the primary fuel vent opening to behind the left lift strut in accordance with Cessna Service Kit SK 180-6. (Under the wing primary fuel vents behind both the left and right wing lift struts are acceptable).

(c) The placard specified in paragraph (a) of this AD is not required if the airplane has been modified per the requirements of paragraph (b) of this AD.

Note 1.—Fuel tank bladders and modifications may be obtained from (but not limited to) the following sources:

1. Aero Tire and Tank, Inc., 11219 Shady Trail, Dallas, TX 75229.
2. Aviation Fuel Cells International, 5680 Shelby Drive, Memphis, TN 38115.
3. Floats and Fuel Cells, 4010 Pilot Drive, suite 3, Memphis, TN 38118.
4. Aviation Materials, 4300 Swinnea Road, Memphis, TN 38118.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) The placard installation required by this AD is preventative maintenance and may be performed by the holder of a pilot certificate issued under FAR part 61 subject to the limitations of FAR 43.3. The maintenance record entries required by FAR 43.9 and FAR 91.417 must be accomplished.

(f) An alternate means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, room 100, Wichita, Kansas 67209.

Note 2.—The request should be forwarded through an FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office. All persons affected by this directive may obtain copies of the documents referred to herein upon request to Cessna Aircraft Services, P.O. Box 1521, Wichita, Kansas 67201; or may examine these documents at

the FAA, Office of the Assistant Chief Counsel, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on November 13, 1990.

Issued in Kansas City, Missouri, on September 13, 1990.

Donald C. Jacobsen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-23238 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-24-AD; Amdt 39-6755]

Airworthiness Directives; Dornier Luftfahrt GmbH, Models Do28D and Do28D-1 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Dornier Luftfahrt GmbH, Models Do28D and Do28D-1 airplanes. This action requires inspection of riveted connections between the L-section and formed sheet on the left-hand and right-hand engine supports. the FAA has received reports of loose rivets due to engine mount vibration. The actions of this AD will preclude failure of the engine support and possible loss of the airplane.

EFFECTIVE DATE: November 13, 1990.

ADDRESSES: Dornier Service Bulletin (SB) No. 1131-1613, dated August 2, 1989, applicable to this AD, may be obtained from Dornier Luftfahrt GmbH, P.O. Box 3, D-8031 Wessling, Federal Republic of Germany (FRG). This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Heinz Hellebrand, Aerospace Engineer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy; Telephone (322) 513.38.30, or Mr. Herman C. Belderok, Aerospace Engineer, FAA, Central Region, Aircraft Certification Service, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring initial and repetitive visual inspections of the riveted connections between the L-section and the formed sheet on the right-hand and left-hand engine supports on certain Dornier Model Do28D and Do28D-1 airplanes was published in the **Federal Register** on June 12, 1990 (55 FR 23749). The proposal resulted from Dornier Luftfahrt GmbH, the manufacturer, reporting that the riveted connections between the L-section and the formed sheet on the right-hand and the left-hand engine mounts can become loose due to engine vibration on Do28D Series airplanes. The movement between the parts will permit increased engine vibration, induced movement, and further degradation of the riveted connections. This loose condition, if not corrected, will result in a rupture of the engine support and possible loss of the airplane.

Consequently, Dornier issued SB No. 1131-1613, dated August 2, 1989, which requires initial and repetitive visual inspections of the riveted connections between the L-section and the formed sheet on the right-hand and left-hand engine supports on these airplanes. It also requires the removal and replacement of any damaged or loose rivets plus replacement of all universal and Huck blind rivets having a diameter of 3.2mm (.126 in) with steel blind rivets having a diameter of 4.0mm.

The German Civil Airworthiness Authority (LBA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in the Federal Republic of Germany, classified this SB and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under LBA registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of the LBA, combined with FAA review of pertinent documentation, in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design, certificated for operation in the United States.

The FAA examined the available information related to the issuance of Dornier SB No. 1131-1613, dated August 2, 1989, and the mandatory classification of this service bulletin by the LBA, and concluded that the condition addressed by Dornier SB No. 1131-1613, was an unsafe condition that may exist on other airplanes of this type, certificated for operation in the United States. Accordingly, the FAA proposed an amendment to part 39 of the Federal Aviation Regulations to include an AD on this subject.

Interested parties were afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Therefore, this AD is the same as proposed in the NPRM except for minor editorial revisions and clarifications.

The FAA has determined that this regulation involves three airplanes at an approximate per inspection cost of $80 for each airplane, for a total fleet cost of $240 for each inspection. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small business entities operating these airplanes.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continued to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Dornier: Applies to Models Do28D and Do28D-1 (all serial numbers) airplanes, certificated in any category. Compliance: Required as indicated in the body of the AD, unless already accomplished.

To prevent engine mount failure, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD visually inspect the riveted connections between the L-section and formed sheet of the right-hand and left-hand engine mounts.

(1) If no loose or damaged rivets are found, reinspect the connections at intervals of 100 hours TIS thereafter.

(2) If any loose or damaged rivets are found, prior to further flight remove and replace any damaged rivets, and replace all universal and Huck blind rivets having a diameter of 3.2mm (.126 in) with steel blind rivets having a diameter of 4.0mm in accordance with the instructions contained in Dornier Service Bulletin No. 1131-1613, dated August 2, 1989. Reinspect the connections at intervals of 100 hours TIS thereafter.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location were this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the initial or repetitive compliance times, which provides an equivalent level of safety, may be approved by the Manager, Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

Note.—The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Staff.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Dornier Luftfahrt GmbH, P.O. Box D-8031 Wessling, Federal Republic of Germany; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on November 13, 1990.

Issued in Kansas City, Missouri, on September 13, 1990.

Donald C. Jacobsen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-23212 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-127-AD; Amendment 39-6758]

Airworthiness Directives; Fokker Model F-27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Fokker Model F-27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, which currently requires supplemental structural inspections, and repair or replacement, as necessary, to ensure continued airworthiness. This amendment will revise the inspection program to add or revise significant structural items to inspect for fatigue cracks. This amendment is prompted by a structural re-evaluation by the manufacturer which identified additional structural elements where fatigue damage is likely to occur. Fatigue cracks in these areas, if not detected and corrected, could result in a reduction of the structural integrity of these airplanes.

EFFECTIVE DATE: November 9, 1990.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 90-08-09, Amendment 39-6570 (55 FR 13261, April 10, 1990), applicable to all Fokker Model F-27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, to require a revision to the inspection program to add or revise significant structural items to inspect for fatigue cracks, and repair, if necessary, was published in the **Federal Register** on July 10, 1990 (55 FR 28222).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

It is estimated that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 243 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $427,680 the first year and annually thereafter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6570 (55 FR 13261, April 10, 1990), AD 90-08-09, with the following new airworthiness directive:

Fokker: Applies to Model F-27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, all serial numbers, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To ensure the structural integrity of these airplanes, accomplish the following:

A. Within six months after May 14, 1990 (the effective date of Amendment 39-6570, AD 90-08-09), incorporate into the FAA-approved maintenance inspection program the inspections, inspection intervals, repairs, or replacements defined in Fokker SIP Document No. 27438, Part I, including revisions up through August 15, 1988; and inspect, repair, and replace, as applicable. The non-destructive inspection techniques referenced in this document provide acceptable methods for accomplishing the inspections required by this AD. Inspection results, where a crack is detected, must be reported to Fokker, in accordance with the instructions of the SIP document.

B. Within six months after the effective date of this amendment, incorporate into the FAA-approved maintenance program the inspections, inspection intervals, repairs, or replacements defined in Fokker Structural Inspection Program (SIP) Document No. 27438, Part I, including revisions up through February 1, 1990; and inspect, repair, and replace, as applicable. The non-destructive inspection techniques referenced in this document provide acceptable methods for accomplishing the inspections required by this AD. Inspection results, where a crack is detected, must be reported to Fokker, in accordance with the instructions of the SIP document.

C. Cracked structure detected during the inspections required by paragraphs A., and B. of this AD, must be repaired or replaced, prior to further flight, in accordance with instructions in Document No. 27438, including revisions up through February 1, 1990.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note.—The request should be submitted directly to the Manager, Standardization Branch, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Washington.

This amendment supersedes Amendment 39-6570, AD 90-08-09.

This amendment becomes effective November 9, 1990.

Issued in Renton, Washington, on September 14, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-23216 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AGL-8]

Alternation of Transition Area; Ludington, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the existing Ludington, MI, transition area to accommodate a revised NDB Runway 25 Standard Instrument Approach Procedure (SIAP) to Mason County Airport, Ludington, MI. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules in controlled airspace.

EFFECTIVE DATES: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, June 13, 1990, the Federal Aviation Administration (FAA) proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter a transition area airspace near Ludington, MI (55 FR 23949).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the designated transition area airspace near Ludington, MI. The transition area is being modified to accommodate a revised NDB Runway 25 SIAP to Mason County Airport, Ludington, MI. The modification to the existing airspace will consist of a 3-mile width each side of the 067° bearing from the airport, extending from the 5-mile radius area to 8.5 miles northeast of the airport.

The revised procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Ludington, MI [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Mason County Airport (lat. 43°57'50" N., long. 86°24'31" W.); and within 3 miles each side of the 067° bearing from the airport

extending from the 5-mile radius to 8.5 miles northeast of the airport.

Issued in Des Plaines, Illinois on September 19, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 90-23217 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances; Ranges of Comparability for Refrigerators, Refrigerator-Freezers, and Freezers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends its Appliance Labeling Rule by revising the ranges of comparability used on required labels for refrigerators, refrigerator-freezers, and freezers.

Under the rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. This notice publishes the new range figures, which, under §§ 305.10, 305.11 and 305.14 of the rule, must be used on labels on refrigerators, refrigerator-freezers, and freezers manufactured on and after December 31, 1990 and in advertising of refrigerators, refrigerator-freezers, and freezers in catalogs printed after December 31, 1990. Properly labeled refrigerators, refrigerator-freezers, and freezers manufactured prior to the effective date need not be relabeled. Catalogs printed prior to the effective date in accordance with 16 CFR § 305.14 need not be revised.

EFFECTIVE DATE: December 31, 1990.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202-326-3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule,[1] pursuant to Section 324 of the Energy Policy and Conservation Act of 1975,[2] covering certain appliance categories, including refrigerators, refrigerator-freezers, and freezers. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all refrigerators, refrigerator-freezers and freezers presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a refrigerator, refrigerator-freezer or freezer is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then the range of estimated annual energy costs for the product must be included on each page of the catalog that lists the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of test procedures developed by the Department of Energy, which are referenced in the rule.

Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report annually by specified dates for each product type.[3] Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing.

To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%.

The new figures for the estimated annual costs of operation for refrigerators, refrigerator-freezers, and freezers, which were calculated using the 1990 representative average energy cost for electricity (7.88 cents per kilowatt-hour) published by DOE on March 12, 1990,[4] have been submitted and have been analyzed by the Commission. New ranges based upon them are herewith published.

In consideration of the foregoing, the Commission amends Appendices A-1, A-2 and B of its Appliance Labeling Rule by publishing the following ranges of comparability for use in the labeling and advertising of refrigerators, refrigerator-freezers, and freezers beginning December 31, 1990.

[1] 44 FR 66466, 16 CFR part 305.

[2] Pub. L. 94-163, 89 Stat. 871 (Dec. 22, 1975).

[3] Reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

[4] 55 FR 9184. The Commission published these figures on April 10, 1990, at 55 FR 13264.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94-163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95-619) (1978), the National Appliance Energy Conservation Act, (Pub. L. 100-12) (1987), and the National Appliance Energy Conservation Amendments of 1988, (Pub. L. 100-357) (1988), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. In Appendices A1, A2 and B, Paragraph 1 of each and the introductory text in Paragraph 2 of each are revised to read as follows:

Appendices

* * * * *

Appendix A1 to Part 305—Refrigerators

1. Range Information:

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 2.5	$21	$29
2.5 to 4.4	25	34
4.5 to 6.4	22	49
6.5 to 8.4	(1)	(1)
8.5 to 10.4	33	39
10.5 to 12.4	39	53
12.5 to 14.4	39	44
14.5 to 16.4	55	56
16.5 and over	64	64

[1] No data submitted.

2. Yearly Cost Information: Estimates on the scale are based on a national average electric rate of 7.88¢ per kilowatt hour.

* * * * *

Appendix A2 to Part 305—Refrigerator-Freezers

1. Range Information:

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 10.5	$36	$57
10.5 to 12.4	52	75
12.5 to 14.4	55	88
14.5 to 16.4	58	89
16.5 to 18.4	60	88
18.5 to 20.4	66	116
20.5 to 22.4	77	114
22.5 to 24.4	82	126
24.5 to 26.4	82	123

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
26.5 to 28.4	98	133
28.5 and over	(1)	(1)

[1] No data submitted.

2. Yearly Cost Information: Estimates on the scale are based on a national average electric rate of 7.88¢ per kilowatt hour.

* * * * *

Appendix B to Part 305—Freezers

1. Range Information:

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 5.5	$23	$51
5.5 to 7.4	26	43
7.5 to 9.4	30	33
9.5 to 11.4	28	56
11.5 to 13.4	30	81
13.5 to 15.4	36	86
15.5 to 17.4	34	74
17.5 to 19.4	48	88
19.5 to 21.4	40	95
21.5 to 23.4	46	88
23.5 to 25.4	103	103
25.5 to 27.4	51	62
27.5 to 29.4	100	100
29.5 and over	127	212

2. Yearly Cost Information: Estimates on the scale are based on a national average electric rate of 7.88¢ per kilowatt hour.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90-23288 Filed 10-1-90; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 239

[Release No. 33-6874; S7-23-88]

Amendment to Form 144

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; form revision.

SUMMARY: The Commission is today amending Form 144. The amendment will conform the text of the notice to the recently amended terms of rule 144 and remove a requirement to provide unnecessary information.

EFFECTIVE DATE: October 2, 1990.

FOR FURTHER INFORMATION CONTACT: Michael Hyatte, Special Counsel, (202) 272-2573, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: On April 19, 1990, the Commission adopted amendments to rule 144 [1] under the Securities Act of 1933.[2] The amendments, which became effective with publication in the **Federal Register**,[3] included the rescission of former rule 144(d)(3) and the redesignation of the remaining subparagraphs of paragraph (d). Under the rescinded provision of the rule, the holding period on restricted securities was suspended during any period the holder of such securities held a short position, put or other option to sell on securities of the same class.

One consequence of the Commission's action was to render obsolete Instruction 2 to Table I on Form 144, the notice of proposed sales required by rule 144(h). Because the rescission of rule 144(d)(3) has made short sales, puts and other options sell irrelevant to the calculation of holding periods under the rule, the Commission is today publishing an amendment to Form 144 that deletes the instruction requiring the unnecessary disclosure.

List of Subjects in 17 CFR part 239

Securities, Reporting and recordkeeping requirements.

Text of Amendments

Title 17, chapter II, part 239 of the Code of Federal Regulations is amended as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. The authority citation for Part 239 continues to read in part as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, *et seq.* * * *

§ 239.144 [Amended]

2. Amending Form 144 (17 CFR 239.144) by removing instruction 2 to Table I and removing the designation "1." from the remaining instruction.

Note: Form 144 does not appear in the Code of Federal Regulations.

By the Commission.

Dated: September 24, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-23269 Filed 10-1-90; 8:45 am]

BILLING CODE 8010-01-M

[1] 17 CFR 230.144.

[2] 15 U.S.C. 77a *et seq.*

[3] Securities Act Release No. 6862, 55 FR 17933 (April 30, 1990).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR chapter I

[T.D. 90-78]

RIN 1515-AA61

Customs Regulations Amendments To Conform With the Harmonized System of Tariff Classification

AGENCY: U.S. Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: On December 21, 1988, T.D. 89-1 was published in the Federal **Register** (53 FR 51244) to set forth interim amendments to the Customs Regulations conforming those regulations to the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS and the interim regulations went into effect on January 1, 1989. This document adopts those interim regulations as final rules, with some changes both in response to comments received during the public comments period and in order to correct errors in the published interim regulations.

EFFECTIVE DATES: November 1, 1990.

FOR FURTHER INFORMATION CONTACT: John G. Black, Commercial Rulings Division (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1983, the International Convention on the Harmonized Commodity Description and Coding system was opened for signature. The Harmonized Commodity Description and Coding System (Harmonized System, or HS), set forth as an Annex to that Convention, is a multipurpose product nomenclature developed over a 10-year period under the auspices of the Customs Co-operation Council in Brussels, Belgium. It is intended to be used to describe and classify goods in international trade for customs (including tariff), trade statistics, and transport documentation purposes. The anticipated use of the HS on a worldwide basis was expected to increase uniformity and predictability of trade data and to promote standardization of trade and transport documentation. The U.S. and its major trading partners were directly and continually involved in the development of the HS. The Convention with its Annex was implemented for international use on January 1, 1988.

In anticipation of possible adoption of the HS by the U.S., the President in

August 1981 requested that the U.S. International Trade Commission initiate an investigation for the purpose of preparing a conversion of the Tariff Schedules of the United States (TSUS), the then-existing reference source for determining the classification of imported merchandise, into the structure of the HS. The resulting conversion followed the HS texts but also provided product descriptions and numerical coding beyond the 6-digits of the international system in order to take into account U.S. tariff and statistical requirements. Thus, each tariff (duty rate) provision was coded in 8-digits and each statistical reporting number in 10-digits. This conversion, submitted to the president on June 30, 1983, was reviewed and revised by the Trade Policy Staff Committee, Office of the U.S. Trade representative, and was republished as TPSC 84–78 on September 30, 1984. A further, more comprehensive, revision published in October 1986 was the basis for GATT Aritticle XXVIII negotiations between the U.S. and its major trading partners looking toward U.S. adoption of the HS.

Following the conclusion of the GATT negotiations, a final conversion entitled the harmonized Tariff Schedule of the United States (HTSUS) was prepared and submitted to Congress with proposed legislation to approve U.S. accession to the HS Convention and to implement the HTSUS as the new U.S. tariff schedule. This purposed legislation was enacted as part of the Omnibus Trade and Competitiveness Act of 1988, Public Law 100-418, August 23, 1988. Section 1203 of the Act approved U.S. accession to the HS Convention, section 1204 enacted the HTSUS as a replacement for the TSUS, and section 1217(b) provided that section 1204 would take effect on January 1, 1989. On October 31, 1988, the U.S. deposited its instruments of accession to the HS Convention, thereby becoming a Contracting Party thereto.

On December 21, 1988, Customs published T.D. 89–1, 53 FR 51244, setting forth interim amendments to the Customs Regulations (19 CFR chapter I) to conform those regulations to the HS and in particular to reflect the structure, language, and numbering of the HS-based HTSUS; the amendments involved principally the replacement of TSUS numerical and organizational references with the new corresponding HTSUS references, the amendment of regulatory texts to reflect HTSUS terminology which differed from that of the TSUS, and, for purposes of style, the elimination of many footnotes. Although the interim amendments took effect on January 1, 1989, in order to coincide with the implementation of the HTSUS, the notice solicited public comments on those amendments and, after an extension of time published on March 7, 1989, 54 FR 9429, the public comment period closed on March 21, 1989. On February 15, 1989, Customs published T.D. 89–26, 54 FR 6881, to clarify and correct certain authority citations set forth in T.D. 89–1.

After the interim regulations went into effect, guidelines were drafted by the National Import Specialist Division of Customs to assist the trade and Customs field personnel in the uniform application of criteria for accurate and complete invoices for various specific HTSUS provisions, with particular reference to the requirements of 19 CFR 141.89(a) which was amended by T.D. 89–1. After reviewing the comments received in response to the interim regulations and the draft guidelines on invoice requirements, Customs determined that it would be beneficial to obtain further information from the importing community relating to the invoice requirements under 19 CFR 141.89(a) and the draft guidelines. Accordingly, on November 14, 1989, Customs published a notice at 54 FR 47348 which (1) announced a series of public meetings to be held in New York from November 27 to December 8, 1989, to discuss invoice requirements with the importing community and (2) reopened the comment period of the interim regulations solely regarding the invoice requirements, with comments to be submitted on or before February 7, 1990.

Discussion of Comments and Final Action

A total of fourteen comments were received from the public in response to T.D. 89–1, all but three of which concerned either invoice requirements or issues outside the scope of the interim regulations. In addition, in excess of sixty comments were subsequently received from the public either with reference to the draft guidelines on invoice requirements or in response to the November 14, 1989, notice which reopened the comment period for invoice requirement purposes.

In view of the large number of complex issues raised in the numerous comments received on invoice requirements, and in consideration of the significant impact which invoice requirements have on the trade community, Customs has determined that further study is necessary before those invoice issues can be properly resolved. At the same time, there are other issues raised in the public comments or disclosed during Customs internal review which clearly warrant changes to the interim regulatory texts or to other provisions in 19 CFR chapter I which were not reflected in T.D. 89–1 or T.D. 89–26. Accordingly, in order to not delay implementation of those other changes pending resolution of the invoice issues, Customs has determined that (1) the interim regulations should be adopted as a final rule which should also reflect technical or editorial changes to the interim texts and to other regulatory provisions based on the public comments and Customs internal review, and (2) all issues regarding invoice requirements should be dealt with as appropriate in a separate document at a later date. The public comments received on non-invoicing issues, and the final changes to the regulations based on those comments or on Customs own review, are discussed below.

Part 7

The authority citation for part 7 is being revised to reflect the proper HTSUS General Note cite which was not corrected in T.D. 89–26.

Part 10

The following changes are being made to part 10 to correct errors in T.D. 89–1 or, in one instance, to insert a T.D. 89–1 change which is not reflected in current 19 CFR chapter I:

Section 10.47 was amended by T.D. 89–1 by replacing the item 870.27, TSUS, reference with the words "subheading 4705.00.00, Harmonized Tariff Schedule of the United States"; this number should have been "9705.00.00" which is the HTSUS subheading that covers the goods of former item 870.27, TSUS. However, on further review Customs has determined that the entire section should be removed. It is noted in this regard that, although all of the products of TSUS item 870.27 were transferred to HTSUS subheading 9705.00.00, the HTSUS provision (1) covers other products in addition to those of TSUS item 870.27; (2) does not describe products "imported for" any specific uses as provided in TSUS item 870.27; and (3) does not contain the limiting language "and not for sale or other commercial use" used in TSUS item 870.27. Inasmuch as the regulatory requirement for the filing of a declaration regarding the intended uses of the imported merchandise was based on statutory standards which have been removed, the regulation no longer serves any purpose and thus should not be retained.

Section 10.53, which concerns antiques, was amended in several

places by replacing TSUS items 766.20 and 766.25 with references to HTSUS subheadings 9705.00.00 and 9706.00.00. The references to subheadings 9705.00.00 are being deleted because that subheading covers neither antiques nor products for which age is a factor for classification purposes. In addition, the references to "Chapter 98" in paragraphs (f) and (g) of this section are being corrected to read "Chapter 97".

The references in sections 10.76(a) and (b) to HTSUS subheading "9817.70" are being corrected to read "9817.00.70".

The reference in section 10.90(a) to HTSUS subheading "8524.20" is being corrected to read "8524.90.20".

T.D. 89–1 amended § 10.121(a) by replacing the TSUS headnote reference at the end thereof with a reference to "U.S. Note 1, Subchapter XVII, Chapter 98, HTSUS". However, this change is not reflected in the current version of 19 CFR chapter I. This printing error is corrected in this document.

Part 19

T.D. 89–1 amended § 19.17(a) in part by replacing the reference to Schedule 6, Part 1 or 2, TSUS, with a reference to "Chapter 26, 71, 72, and 73" of the HTSUS. Two commenters stated that the amended section, which identifies those metal-bearing materials that may be smelted or refined in bonded warehouses, is improperly limited in scope because it does not cover metals other than iron or steel. These commenters argued that the HTSUS reference should be to "Chapters 26 and 71 through 83", and they pointed out in this regard that this would align the regulation with 19 U.S.C. 1312(f) which was amended to refer to these HTSUS Chapters by section 1214(h) of the Omnibus Trade and Competitiveness Act of 1988.

Customs agrees that the regulatory provision should be changed as suggested by these commenters so as to reflect the scope of the statutory provision which is the basis for, and is cited in, the regulation. Although the mention of Chapters 82 and 83 in the statute and regulation broadens the scope by including articles not previously covered by Schedule 6, parts 1 and 2, TSUS, the meaning of "metal-bearing materials" set forth in 19 U.S.C. 1312(f) remains the same. Thus, § 19.17 will continue to apply to metal-bearing ores and other metal-bearing materials, metal waste and scrap, unwrought metal, and metal compounds.

Part 24

T.D. 89–1 inadvertently failed to replace the TSUS references with appropriate HTSUS references in sections 24.23(b)(1)–(3); this document corrects these omissions. The document also inserts the proper HTSUS reference in section 24.23(b)(4). The amendments to sections 24.23(b) (1), (3) and (4) conform to amendments to 19 U.S.C. 58c(a)(9) effected by the Omnibus Trade and Competitiveness Act of 1988 and by the Customs and Trade Act of 1990.

Part 132

T.D. 89–1 amended section 132.6 by replacing the reference to TSUS General Headnote 3(e) (which should have been amended previously to read General Headnote "3(d)") with a reference to HTSUS "General Note 3(c)". The amended regulation, which has reference to products of Communist countries and areas, should have referred to HTSUS General Note "3(b)". This document corrects this error.

Part 134

T.D. 89–1 revised § 134.43(a) by deleting the list of TSUS item numbers and, in order to ensure the same scope, by inserting in the regulation the names of additional specific types of products covered by those TSUS numbers. However, "dental instruments" (covered by deleted TSUS item 709.25) and "scientific and laboratory instruments" (which were listed in the regulation before its revision) were inadvertently left out of the text appearing in T.D. 89–1. This document inserts those references.

Section 134.43(b) was amended by T.D. 89–1 by replacing the existing TSUS headnote references with a reference to "Chapter 91, Additional U.S. Note 4", but without referring to the "Harmonized Tariff Schedule of the United States". This incomplete citation is correct.

Part 141

T.D. 89–1 revised § 141.4(b) to cite specific HTSUS provisions covering vessels for which an entry must be filed. Inadvertently omitted from the revised text were references to HTSUS heading 8907 and subheadings 8905.90.10 and 8906.00.10. This document corrects this oversight. In addition, the reference to General Note "5" is being corrected to read "4" in § 141.4(a).

Part 142

T.D. 89–1 as published in the Federal Register (but not as published in the *Customs Bulletin*) omitted some lines, consisting of (1) the authority citation for part 142 and (2) an amendment to § 142.6(a)(4), the latter comprising a direct conversion to HTSUS terminology without any change in substance. This document sets forth those omitted lines.

Part 151

One commenter suggested a number of changes to the regulatory provisions concerning petroleum and petroleum products. With regard to §§ 151.13(a)(1) and 151.44(a), this commenter argued in favor of using metric tons and gallons, rather than barrels, as units of quantity, because many U.S. and foreign petroleum measurement operations are conducted on an English (gallon) or metric (metric ton) basis and thus use of the barrel standard would cause confusion and lead to inconsistencies. Moreover, this commenter stated that any use of a barrel standard should be based on clearly defined metric guidelines and conversion factors, pointing out that the definition of "barrel" in Additional U.S. Note 7 to chapter 27, HTSUS, should refer to "158.9873 liters" rather than "158.98 liters". With regard to the analysis methods and standards set forth in the tables under §§ 151.13(a)(2) and 151.14, the commenter proposed a number of changes involving both the inclusion of API (American Petroleum Institute) standards with the existing ASTM standards and the addition of some new standards and methods. Finally, this commenter argued in favor of use of a net quantity (defined to mean Net Standard Volume, *i.e.*, excluding sediment and water) for entry and reporting purposes, with the deletion of the reference to "gross quantity" in § 151.13(a)(1) (to be consistent with the "net quantity" reference in § 151.47) and with the deletion of the § 151.46 Customs Form 4315 allowance application procedure (to reduce the paperwork burden on Customs and importers).

Customs does not agree with the proposal to replace the barrel unit of quantity with metric tons or gallons. Barrels are specifically provided for in the Units of Quantity column opposite heading 2710 in the HTSUS, and Customs has no authority to apply a regulatory standard which conflicts with the statutory standard. Similarly, Customs has no authority to modify Additional U.S. Note 7 to chapter 27 to refer to "158.9873" liters. Questions regarding possible amendments to the provisions set forth in the HTSUS more properly fall under the jurisdiction of the U.S. International Trade Commission.

With regard to the proposal to amend the tables under §§ 151.13(a)(2) and 151.14 by including API testing standards with the ASTM standards and by adding new standards and methods, Customs does not believe that it is necessary or appropriate to take such

action at the present time. No allegation has been made to the effect that the standards set forth in the regulations are incorrect or otherwise unsuitable, and Customs simply does not have the manpower resources that would be required to determine whether the API and other suggested standards and methods in fact correspond precisely to the existing ASTM standards contained in the regulations. Customs recognizes, however, that some API standards were developed jointly with the ASTM standards and thus may be equivalent. Accordingly, in order to not foreclose the use of alternate but fully equivalent testing standards and in order to avoid regulatory amendments whenever a specified ASTM standard is replaced by a new ASTM standard, the table under § 151.13(a)(2) is being amended in this document by adding the words "or other equivalent approved method", where appropriate, within the parentheses after the ASTM standard specified in the "Characteristic (analysis method)" column. It should be noted, however, that a laboratory which wishes to use a testing standard not specified in the regulation must obtain approval from Customs for use of that alternate standard in order to ensure that the results will be acceptable to Customs.

Finally, Customs does not agree with the proposals to provide in the regulations for the use of only net quantity and to do away with the Customs Form 4315 allowance application procedure. The present regulations adequately provide the option of using net quantity both for purposes of gauging reports (§ 151.13(a)(1)) and for entry purposes (§ 151.47). However, there may be circumstances where the importer may prefer to make entry based on the gross quantity, for example when the analytical laboratory report is not available for filing with the entry summary as required under § 151.47; in such a case the importer could later file the Customs Form 4315 so as to ensure that liquidation would be based on the net quantity. Customs sees no reason to deprive importers of this flexibility. In addition, retention of the Customs Form 4315 procedure is necessary because Customs often uses the form to verify the importer's claim against the gauger's or Customs laboratory test, and the determination of sediment and water by a Customs-accredited commercial laboratory, rather than simply accepting the net standard volume as determined by a party not under the control of Customs prior to arrival in the U.S., is a necessary control procedure.

Customs has also determined during its internal review of the interim regulations that other changes should be made to the regulations in part 151. These changes, and the reasons therefore, are as follows:

1. All references to the analysis of sugar (sucrose, raw sugar), molasses, and standard newsprint (HTSUS headings 1701, 1703, and 4801) have been removed from §§ 151.13(a)(2) and 151.14. The removal of sugar and molasses testing is due to the fact that, effective January 10, 1989, Customs laboratories assumed the responsibility for testing sugar and for reporting quantities for purposes of the sugar quota program; thus, it is no longer necessary for commercial laboratories to do the testing and therefore no such laboratories have been approved for such purposes (except in the case of molasses weight per gallon which uses a Fahrenheit standard and thus is no longer relevant under the HTSUS). The removal of the standard newsprint testing is necessitated by the fact that commercial laboratories are unwilling to perform this type of testing due to high testing costs, with the result that Customs has no basis for monitoring this type of testing. The resulting changes to the regulations involve: (1) Removal of "TAPPI, ICUMSA," from the text of § 151.13(a)(2); (2) removal of the references in question from the "HTSUS", "Product", and "Characteristic (analysis method)" columns in the table under § 151.13(a)(2); (3) removal of the words "the International Commission for Uniform Methods of Sugar Analysis (ICUMSA)," from § 151.13(g)(1); and (4) redrafting of § 151.14 by removing the table and setting forth the regulation in paragraph form to reflect the retention of only one category (sediment and water).

2. The spelling of "naptha" is being corrected to read "naphtha" in the two tables under § 151.13.

3. Section 151.46 is being revised to set forth a cross-reference to § 158.13, and the substance of § 151.46 is being transferred to § 158.13 as a separate subparagraph under paragraph (a). It is noted in this regard that T.D. 89–1 revised § 151.46 (to reflect the amendment to 19 U.S.C. 1507 effected by section 1902 of the Omnibus Trade and Competitiveness Act of 1988) to provide for an allowance for all detectable water and sediment in imported petroleum and petroleum products. However, the revision of § 151.46, by removing the cross-reference to § 158.13 and by including substantive procedural requirements (formerly covered exclusively by § 158.13) in revised § 151.46, has resulted in a contextual or organizational problem: § 151.46 no longer refers to any quantitative standards (which is the overall context of part 151) but rather refers to procedures for obtaining an allowance for duty purposes (which is the context of part 158), with the result that there may be difficulty in knowing where to find the allowance provisions relating to petroleum and petroleum products. The transfer of the substance of present § 151.46 to § 158.13, with modifications to the titles of both sections and other consequential changes to clarify that different standards apply to petroleum products than to other types of products, will obviate these problems.

Finally, the citation of authority for part 151 is being revised by deleting the authority citation for § 151.43, a section removed and reserved by T.D. 87–39, 52 FR 9784.

Part 159

T.D. 89–1 amended § 159.7(a)(1) by replacing the reference to TSUS Schedule 1, part 12, with a reference to HTSUS headings 2207 and 2208. However, products covered by the TSUS reference also fall under HTSUS headings 2203, 2204, 2205, and 2206. Accordingly, the regulation is amended by this document to include references to those additional headings.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collection of information contained in the final regulation in § 134.22(b), pertaining to country of origin marking on imported containers or holders, has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504 (h)) under control number 1515–0163. The estimated average burden associated with the collection of information in this final rule is 15 seconds per response and

10 minutes on an annual basis per respondent. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229, or the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Drafting Information

The principal author of this document was Francis W. Foote, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR, Chapter I

Customs duties and inspection; Harmonized tariff schedule of the United States, Imports.

Amendments to the regulations

Accordingly, the interim rule amending 19 CFR chapter I which was published at 53 FR 51244–51271 on December 21, 1988, is adopted as a final rule with the following changes:

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

1. The authority citation for part 7 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, unless otherwise noted.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1508, 1623, 1624.

§ 10.47 [Removed and Reserved]

2. Part 10 is amended by removing § 10.47 and by marking it "reserved".

§ 10.53 [Amended]

3. Section 10.53 is amended as follows:

(a) Paragraphs (a) and (c) are amended by removing the words "9705.00.00 or".

(b) Paragraphs (b), (d), and (f) are amended by removing the words "subheadings 9705.00.00 and" wherever they appear and by adding, in their place, the word "subheading".

(c) Paragraphs (f) and (g) are amended by removing the words "Chapter 98" and by adding, in their place, the words "Chapter 97".

§ 10.76 [Amended]

4. Section 10.76, paragraphs (a) and (b), are amended by removing the words "subheading 9817.70" and by adding, in their place, the words "subheading 9817.00.70".

§ 10.90 [Amended]

5. Section 10.90, paragraph (a), is amended by removing the words "subheading 8524.20" and by adding, in their place, the words "subheading 8524.90.20".

§ 10.121 [Amended]

6. Section 10.121, paragraph (a), is amended by removing the words "headnote 1, part 6, schedule 8, Tariff Schedules of the United States" and by adding, in their place, the words "U.S. Note 1, Subchapter XVII, chapter 98, HTSUS".

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The general authority citation for part 19 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, unless otherwise noted.

§ 19.17 [Amended]

2. Section 19.17, paragraph (a), is amended by removing the words "Chapter 26, 71, 72, and 73" and by adding, in their place, the words "Chapters 26 and 71 through 83".

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58a–58c, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, 31 U.S.C. 9701; Pub. L. 99–662, unless otherwise noted.

§ 24.23 [Amended]

2. Section 24.23 is amended as follows:

(a) Paragraph (b)(1) is amended by removing the words "schedule 8, Tariff Schedules of the United States (TSUS; 19 U.S.C. 1202)" and by adding, in their place, "Chapter 98, Harmonized Tariff Schedule of the United States (HTSUS; 19 U.S.C. 1202)".

(b) Paragraph (b)(2) is amended by removing the words "(General Headnote 3(a), TSUS)" and by adding, in their place, "(General Note 3(a)(iv), HTSUS.)".

(c) Paragraph (b)(3) is amended by removing the words "(General Headnote 3(e)(vii), TSUS.)" and by adding, in their place, "(General Note 3(c)(v), HTSUS.)".

(d) Paragraph (b)(4) is amended by removing the words "least developed developing countries. (General Headnote 3(e)(vi), TSUS.)" and by adding, in their place, "least-developed beneficiary developing countries. (General Note 3(c)(ii)(B), HTSUS.)".

PART 132—QUOTAS

1. The authority citation for part 132 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

§ 132.6 [Amended]

2. Section 132.6 is amended by removing the words "General Note 3(c)" and by adding, in their place, the words "General Note 3(b)".

PART 134—COUNTRY OF ORIGIN MARKING

1. The authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1304, 1624.

§ 134.43 [Amended]

2. Section 134.43 is amended to read as follows:

(a) Paragraph (a) is amended by adding after "surgical instruments," the words "dental instruments, scientific and laboratory instruments,".

(b) Paragraph (b) is amended by adding after "Additional U.S. Note 4" the words ", Harmonized Tariff Schedule of the United States".

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for part 141 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

§ 141.4 [Amended]

2. Section 141.4 is amended as follows:

(a) Paragraph (a) is amended by removing the words "General Note 5" and by adding in their place, the words "General Note 4".

(b) Paragraph (b) is revised to read as follows:

(b) Vessels (not including vessels classified in headings 8903 and 8907 and subheadings 8905.90.10 and 8906.00.10 or in Chapter 98, HTSUS, such as under subheadings 9804.00.35 or 9813.00.35). See also Chapter 89, Additional U.S. Note 1.

* * * * *

PART 142—ENTRY PROCESS

1. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

§ 142.6 [Amended]

2. Section 142.6, paragraph (a)(4), is amended by removing the first two sentences and by adding, in their place, the following: "The appropriate eight-digit subheading from the Harmonized Tariff Schedule of the United States. If the importer is uncertain of the appropriate subheading number, Customs shall assist him at his request."

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The authority citation for part 151 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Notes 8 and 9, Harmonized Tariff Schedule of the United States), 1624.

* * * * *

Section 151.42 also issued under 19 U.S.C. 1460, 1584, 1592;
Section 151.46 also issued under 19 U.S.C. 1507;

* * * * *

§ 151.13 [Amended]

2. Section 151.13 is amended as follows:

(a) The table under paragraph (a)(1) is amended by removing from the Product column the word "naptha" and by adding, in its place, the word "naphtha".

(b) Paragraph (a)(2) is amended by removing the words "TAPPI, ICUMSA," from the last sentence before the table.

(c) Paragraph (a)(2) is further amended by removing the table and by adding, in its place, the following table:

HTSUS	Product	Characteristic (analysis method)
2707.10 through 2707.30 and 2902.20 through 2902.44.	Benzene toluene and xylene	—Distillation characteristics (ASTM D 86). —Xylene isomer content (ASTM D 2306 or other equivalent approved method). —Percent composition by weight (ASTM D 2360, D 3797, D 3798, D 4492 or other equivalent approved methods).
2709	Crude petroleum	—Water by distillation (ASTM D 4006 or other equivalent approved method). —Sediment and water (ASTM D 96 or other equivalent approved method). —API gravity (ASTM D 287 or other equivalent approved method). —Sediment by extraction (ASTM D 473 or other equivalent approved method).
2710 (various subheadings)	Such as, fuel oil, motor fuel, Kerosene, naphtha, and lubricating oils.	—Distillation characteristics (ASTM D 86 or other equivalent approved method). —Water by distillation (ASTM D 95 or other equivalent approved method). —Sediment and water (ASTM D 96 or other equivalent approved method). —API gravity (ASTM D 287 or other equivalent approved method). —Reid vapor pressure (ASTM D 323 or other equivalent approved method). —Saybolt universal viscosity (ASTM D 445 and D 2161 or other equivalent approved methods). —Sediment by extraction (ASTM D 473 or other equivalent approved method). —Percent by weight sulfur (ASTM D 1266, ASTM D 2622, or ASTM D 3120, or other equivalent approved methods). —Percent by weight lead (ASTM D 2547, ASTM D 2599, or ASTM D 3341, or other equivalent approved methods). —Antiknock index (ASTM D 2699 (RON) and ASTM D 2700 (MON); see ASTM D 439).
Chapter 29 (various subheadings)	Organic compounds in bulk and in liquid form.	—Identity using HTSUS descriptions or common or IUPAC nomenclature. —Composition, giving percent by weight of each component. (Various methods published by ASTM, API, AOAC, USP, and similar organizations, may used for identity and composition, e.g., ASTM D 2593 for butadiene, D 2192 for aldehydes, ketones, and similar substances. Approved methods involving gas or liquid chromatography, infrared spectroscopy mass spectrometry, nuclear magnetic resonance spectrometry, and various "wet" chemical procedures and physical tests, e.g., refractive index, and melting point, may also be used.)

(d) Paragraph (g)(1) is amended by removing the words "the International Commission for Uniform Methods of Sugar Analysis (ICUMSA),".

3. Section 151.15 is revised to read as follows:

§ 151.14 Use of commercial laboratory tests in liquidation.

The "sediment and water" characteristic as set out in § 151.13(a)(2) and as determined by a Customs-accredited commercial laboratory shall be used for Customs purposes if the difference between the value found by the commercial laboratory and the value found by the Customs laboratory does not exceed 0.11 percent. If the difference exceeds this limit and the Customs-accredited commercial laboratory cannot establish that Customs is in error, then the Customs results shall be used.

4. Section 151.46 is revised to read as follows:

§ 151.46 Allowance for detectable moisture and impurities.

An allowance for all detectable moisture and impurities present in or upon imported petroleum or petroleum products shall be made in accordance with § 158.13 of this chapter.

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

1. The authority citation for part 158 is revised to read as follows:

Authority: 19 U.S.C. 66, 1624, unless otherwise noted. Subpart C also issued under 19 U.S.C. 1563.

2. Section 158.13 is revised to read as follows:

§ 158.13 Allowance for moisture and impurities.

(a) *Application by importer.* (1) *Petroleum and petroleum products.* An application for an allowance in duties under section 507, Tariff Act of 1930, as amended (19 U.S.C. 1507), for all detectable moisture and impurities present in or upon imported petroleum or petroleum products shall be made by the importer on Customs Form 4315. The application shall be filed with the district director within 10 days of the district director's receipt of the gauging report or within 10 days of Customs acceptance of the entry's invoice gauge.

(2) *Other products.* An application for an allowance in duties under 19 U.S.C. 1507 for products other than petroleum or petroleum products for excessive moisture or other impurities not usually found in or upon such or similar

merchandise shall be made by the importer or Customs Form 4315. The application shall be filed with the district director within 10 days after the report of weight or gauge has been received by the district director or within 10 days after the date upon which the entry or a related document was endorsed to show that invoice weight or gauge has been accepted by the Customs inspector or other Customs officer.

(b) *Allowance by district director.* If the district director is satisfied after any necessary investigation that the merchandise contains moisture or impurities as described in paragraph (a) of this section, he shall make allowance for the amount thereof in the liquidation of the entry.

PART 159—LIQUIDATION OF DUTIES

1. The authority citation for part 159 continues to read as follows:

Authority: 19 U.S.C. 66, 1500, 1624. Subpart C also issued under 31 U.S.C. 372. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 159.7 [Amended]

2. Section 159.7(a)(1) is amended by removing the words "headings 2207 and 2208" and by adding, in their place, the words "headings 2203 through 2208".

Carol Hallett,

Commissioner of Customs.

Approved: September 26, 1990.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 90-23246 Filed 10-1-90; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-90-3155; FR-2912-N-1]

FHA Single Family Maximum Mortgage Limits; Reduction of High Cost Ceilings

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of reduction of FHA single family maximum mortgage limits for high-cost areas.

SUMMARY: This Notice is for the purpose of announcing that, unless extended by Congress, the current maximum mortgage limits for high-cost areas will no longer be in effect after September 30, 1990, and will revert to the limits in effect before fiscal year 1990.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9272; telephone (202) 708-2700. For manufactured homes: Robert J. Coyle, Director, Title I Insurance Division, Room 9160; telephone (202) 708-2880; 451 Seventh Street SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA), 12 U.S.C. 1710-1749, authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

The Department published lists of high-cost areas on January 12, 1990 (55 FR 1312) and June 14, 1990 (55 FR 24075), listing all areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and the applicable limits for each area.

Currently, the National Housing Act provides that HUD can grant mortgage insurance for a one-family dwelling in a high-cost area up to a maximum of $101,250 (150% of the medium one-family dwelling mortgage limit), with corresponding increases for two-, three-, and four-family dwellings. For fiscal year 1990, however, as a condition in the Departments of Veterans Affairs and Housing and Urban Development Appropriation Act (Pub. L. 101-144), HUD as authorized to insure high-cost area mortgages up to 185% of the base statutory mortgage insurance limits provided for in the NHA ($124,875 in the case of a one-family dwelling). If no continuing resolution is enacted, the authority to set limits in excess of 150% of the statutory limits will expire after September 30, 1990, except for mortgages insured under Title II of the NHA:

(1) Pursuant to a conditional commitment or master conditional commitment issued by HUD on or before September 30, 1990; or

(2) Pursuant to an appraisal report or master appraisal report signed by a Direct Endorsement underwriter on or before September 30, 1990; or

(3) Pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or before September 30, 1990.

Since the authority to increase limits was temporary, HUD did not amend its regulations to conform them to the 185% increase of the basic mortgage limit in high-cost areas for fiscal year 1990. The current regulations, which limit insurance coverage to 150% of the base amount in high-cost areas, have been waived in those areas where local cost data supported a limit in excess of 150%.

If a continuing resolution on appropriations for fiscal year 1991 becomes law, the 185% maximum might be extended in accordance with its terms.

This Document

Today's document is for the purpose of announcing that, unless pending legislation is enacted by the Congress to extend the authority to increase maximum mortgage limits in high-cost areas beyond September 30, 1990, any area whose current temporary high-cost limit exceeds 150% of the base statutory mortgage insurance limits will be limited to the maximum mortgage insurance limit in effect before fiscal year 1990 (*i.e.*, $101,250 for a one-family dwelling, $114,000 for a two-family dwelling, $138,000 for a three-family dwelling, and $160,500 for a four-family dwelling).

Increased limits in high-cost areas for Title I loans (combination manufactured home and lot loan and lot-only loans) will also revert to the limits in effect before fiscal year 1990.

Dated: September 26, 1990.

Arthur J. Hill,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90-23268 Filed 10-1-90; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles/Long Beach Regulation 90-10]

Security Zone Regulations; Port Hueneme, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: Captain of the Port Los Angeles/Long Beach Regulation 90-08 established a security zone in Port Hueneme, California around any vessels moored at Port Hueneme wharfs 4 and 6. Due to changing operations the Coast Guard is establishing an additional security zone in Port Hueneme, California around any vessels moored at Port Hueneme wharfs 3 and 5 during the effective period of these regulations. The zone is needed to safeguard vessels involved in military equipment outloads at Port Hueneme wharfs 3, 4, 5, and 6 against destruction, loss, or injury from sabotage or other subversive acts, accidents, or causes of a similar nature. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATES: This regulation becomes effective at 12 noon, September 20, 1990. It terminates at 12 midnight, October 15, 1990.

FOR FURTHER INFORMATION CONTACT: LCDR R.M. Miles at (213) 499-5570.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss, or injury to vessels involved in military equipment outloads at Port Hueneme wharfs 3, 4, 5, and 6.

Drafting Information

The drafters of this regulation are LCDR J. Brusseau, project officer for the captain of the port, and LCDR J.J Jaskot, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin 12 noon on September 20, 1990. This security zone is necessary to ensure the security of vessels involved in military equipment outloads at Port Hueneme wharfs 3, 4, 5, and 6.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T1111 is added to read as follows:

§ 165.T1111 Security Zone: Vessels Moored at Wharfs 3 and 5, Port Hueneme, California.

(a) *Location.* The following area is a security zone:

The waters of Port Hueneme within 100 yards of any vessels moored at Port Hueneme wharfs 3 and 5.

(b) *Effective Date:* This regulation becomes effective at 12 noon, September 20, 1990. It terminates at 12 midnight, October 15, 1990.

(c) *Regulations:* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the captain of the port. Section 165.33 also contains other general requirements.

C.T. Desmond,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Los Angeles/Long Beach.

[FR Doc. 90-23300 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AE37

Health Professional Scholarship Program—Associate Degree in Nursing

AGENCY: Department of Veterans Affairs.

ACTION: Final regulation.

SUMMARY: The Department of Veterans Affairs (VA) is amending its medical regulations governing the Health Professional Scholarship Program to implement new statutory provisions, to clarify the law on the length of eligibility for a stipend, and to facilitate more cost-effective program administration. These amendments will change the "purpose statement" in the regulations, change the definitions of the terms "degree" and "school year," and clarify that VA does not pay program participants a stipend following graduation.

EFFECTIVE DATE: The regulations are effective November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Dr. Charlotte Beason, Director, Health Professional Scholarship Program (143B), Office of Academic Affairs, Veterans Health Services and Research Administration, Department of Veterans Affairs (202) 233-3588.

SUPPLEMENTARY INFORMATION: VA published proposed amendments to the regulations governing the Department's Health Professional Scholarship Program on pages 13554-13555 of the Federal Register dated April 11, 1990. Interested persons were given 30 days to submit comments, suggestions, or objections regarding the regulations. The Department received no comments and is now publishing the amendments, without change, as final regulations.

VA has determined that these proposed regulations are not major as defined by Executive Order 12291, Federal Regulation. They will not have an effect on the economy of $100 million and will not result in any major increases in costs or prices for anyone; nor will they have significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary hereby certifies that these proposed regulations will not, when promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The amended regulations affect only individuals who apply and are selected for VA Health Professional Scholarship Program awards. These regulations will, therefore, impose no regulatory burdens on small entities.

The Catalog of Federal Domestic Assistance Number for this program is: 64.023.

List of Subjects in 38 CFR Part 17

Health professions, scholarships and fellowships.

Approved: September 12, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 17—[AMENDED]

38 CFR Part 17, Medical, is amended as follows:

1. Section 17.600 is revised to read as follows:

§ 17.600 Purpose.

The purpose of §§ 17.600 through 17.612 is to set forth the requirements for the award of scholarships under the Department of Veterans Affairs Health Professional Scholarship Program to students receiving education or training in a direct or indirect health-care services discipline to assist in providing an adequate supply of such personnel for VA and for the Nation. Disciplines include nursing, physical therapy, occupational therapy, and other specified direct or indirect health-care disciplines if needed by VA.

2. In § 17.601 paragraphs (h) and (p) are revised to read as follows:

§ 17.601 Definitions.

* * * * *

(h) *Degree* means a course of study leading to a doctor of medicine, doctor of osteopathy, doctor of dentistry, doctor of optometry, doctor of podiatry, or an associate degree, baccalaureate degree, or master's degree in a nursing specialty needed by VA; or a baccalaureate or master's degree in another direct or indirect health-care service discipline needed by VA.

* * * * *

(p) *School year* means, for purposes of the stipend payment, all or part of the 12-month period from September 1 through August 31 during which a participant is enrolled in the school as a full-time student.

§ 17.606 [Amended]

3. In § 17.606, new paragraph (a)(7) is added to read as follows:

(a) * * *

(7) A participant's eligibility for a stipend ends at the close of the month in which degree requirements are met.

* * * * *

[FR Doc. 90-23293 Filed 10-1-90; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 21

RIN 2900-AD77

Disabling Effects of Chronic Alcoholism

AGENCY: Department of Veterans Affairs.

ACTION: Final regulatory amendments.

SUMMARY: The Veterans' Benefits and Programs Improvement Act of 1988 provides that the disabling effects of chronic alcoholism shall not be considered to be the result of the veteran's willful misconduct for the purpose of extending a delimiting date under any education benefit or rehabilitation program administered by the Department of Veterans Affairs (VA). The intended effect of this final rule is to implement this provision of the statute with respect to the vocational rehabilitation program.

EFFECTIVE DATES: November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Morris Triestman (202) 233-6496, Rehabilitation Consultant, Policy and Program Development, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, 202-233-6496.

SUPPLEMENTARY INFORMATION: At pages 40688 and 40689 of the **Federal Register** of October 3, 1989, the Department of Veterans Affairs published proposed regulations which implemented section 109 of the Veterans Benefits and Programs Improvement Act of 1988 (Public Law 100-689). That section states that for the purposes of extending the eligibility period for training and rehabilitation services under any of the educational assistance or vocational rehabilitation programs administered by the Department of Veterans Affairs, the disabling effects of chronic alcoholism will not be considered to have been the result of willful misconduct.

Interested persons were given 30 days in which to submit their comments, suggestions or objections to the proposed regulatory amendments. One letter was received.

The letter contained two objections to the proposed regulation and suggestions as to how these objections could be remedied. First, the letter writer objected to the regulation's exclusion of a general diagnosis of chronic alcoholism alone as constituting disabling effects of chronic alcoholism for which an extension of eligibility could be approved. It was suggested that extensions of eligibility be granted on the basis of any such medical diagnosis since this was seen as more consistent with VA's policy of broadly interpreting the law to grant every benefit that could be supported thereunder and of resolving reasonable doubt in the veteran's favor.

The law specifies that an extension of eligibility may only be granted if the veteran has been prevented from participating in a vocational rehabilitation program because of the disabling effects of chronic alcoholism. A diagnosis of alcoholism does not, in and of itself, satisfy the statutory requirement since the nature of alcoholism is such that it can exist and yet not manifest itself in effects which are shown to have prevented educational pursuit. The proposed regulation appropriately implements the law by providing that certain alcohol-induced physical or mental disorders, medically diagnosed as manifestations of chronic alcoholism, which are determined to have prevented the commencement or completion of a rehabilitation program will be considered "disabling effects of chronic alcoholism." The determination of the effect of such disorders on the veteran's ability to pursue a vocational rehabilitation program is made on the basis of an individual review of the evidence in each case. VA uses available medical information together with other evidentiary indications of occupational or educational impairment to reach a decision. If reasonable doubt exists, that doubt is resolved in the veteran's favor.

The writer's second objection to the proposed regulation concerns the requirement that there be a minimum period of 30 days of infeasibility for vocational rehabilitation before an adjustment of the basic 12-year period of eligibility may be granted. The writer states that this rule denies an extension to veterans who have been prevented from training because of chronic alcoholism since the average duration of alcohol treatment programs is 28 days. The objection appears to assume that the only period which will be considered in determining the duration of the extension is the period during which the veteran was in a treatment program. This assumption is not correct. In determining whether the conditions for an adjustment of the eligibility period are met, VA includes the 28-day or other period during which the veteran was in treatment and the period during which the veteran, as indicated above, is shown to have experienced occupational or educational impairment due to the disabling effects of chronic alcoholism. Further, we note that the existing 30-day minimum medical infeasibility for training requirement derives from administrative judgment that infeasibility for a lesser period would not be of such significance vis-a-vis the individual's ability to complete a vocational rehabilitation program that extending the program for a like period would be of any appreciable advantage. The requirement is uniformly applicable to all mental or physical disabilities and we find no basis for distinguishing the disabling effects of chronic alcoholism in this regard.

Thus, after careful consideration, we find that the objections do not warrant

changing the regulation. The regulation is adopted as final.

A technical correction to paragraph (c)(3) is being made by adding the phrase, "disabling effects of." This phrase was inadvertently omitted in the proposed regulation. No substantive changes are being made.

VA has determined that these amended regulations do not contain a major rule as that term is defined in Executive Order 12291, Federal Regulations. The proposal will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

These regulatory amendments are retroactively effective. These are interpretive rules which implement statutory provisions. Moreover, VA finds that good cause exists for making these rules, like the section of the law which they implement, retroactively effective to the date of enactment. A delayed effective date would be contrary to statutory design; would complicate implementation of this provision of law; and might result in a denial of a benefit to a veteran who is entitled by law to that benefit.

The Secretary certifies that these amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA) 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the amendments only affect the rights of individual beneficiaries. No new regulatory burdens are imposed on small entities by these amendments.

The Catalog of Federal Domestic Assistance number is 64 116.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: August 30, 1990.

Edward J. Derwinski,
Secretary of Veterans Affairs.

PART 21—[AMENDED]

38 CFR part 21, Vocational Rehabilitation and Education, is amended by revising paragraph (c) of § 21.42 to read as follows:

§ 21.42 Basic period of eligibility deferred.

* * * * *

(c) *Medical condition prevents initiation or continuation.* (1) The basic 12-year period of eligibility shall not begin to run or continue to run during any period of 30 days or more in which the veteran's participation in vocational rehabilitation is infeasible because of the veteran's medical condition, which condition may include the disabling effects of chronic alcoholism, subject to paragraph (c)(5) of this section. The 12-year period shall begin or resume when it is feasible for the veteran to participate in a vocational rehabilitation program, as that term is defined in § 21.35.

(2) The term "disabling effects of chronic alcoholism" means alcohol-induced physical or mental disorders or both, such as habitual intoxication, withdrawal, delirium, amnesia, dementia, and other like manifestations of chronic alcoholism which, in the particular case:

(i) Have been medically diagnosed as manifestations of alcohol dependency or chronic alcohol abuse; and

(ii) Are determined to have prevented commencement or completion of the affected individual's rehabilitation program.

(3) A diagnosis of alcoholism, chronic alcoholism, alcohol dependency, chronic alcohol abuse, etc., in and of itself, does not satisfy the definition of "disabling effects of chronic alcoholism."

(4) Injury sustained by a veteran as a proximate and immediate result of activity undertaken by the veteran while physically or mentally unqualified to do so due to alcoholic intoxication is not considered a disabling effect of chronic alcoholism.

(5) The disabling effects of chronic alcoholism, which prevent initiation or continuation of participation in a vocational rehabilitation program after November 17, 1988, shall not be considered to be the result of willful misconduct.

(Authority: 38 U.S.C. 1503(b)(1), Pub. L. 100–689)

[FR Doc. 90–23294 Filed 10–1–90; 8:45 am]
BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–3778–9]

Standards of Performance for New Stationary Sources Amendments to Subpart J (Petroleum Refineries) and Addition of Performance Specification 7 to Appendix B

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this action is five-fold: (1) To require (as opposed to being an option) the monitoring of sulfur dioxide (SO_2) in gases discharged into the atmosphere from the combustion of fuel gases or, as an alternative, the monitoring of hydrogen sulfide (H_2S) in fuel gases; (2) to delete the mention of controlling SO_2 after combustion of fuel gases; (3) to delete the monitoring requirement of H_2S in gases discharged into the atmosphere from Claus sulfur recovery plants, but require the monitoring of other reduced sulfur compounds using continuous emission monitoring systems (CEMS's) or SO_2 CEMS's after oxidizing the reduced sulfur compounds to SO_2; (4) to add Performance Specification (PS) 7 for H_2S CEMS's to Appendix B of this part; and (5) to clarify ambiguities in the existing regulations. All affected fuel gas combustion devices and Claus plants in petroleum refineries, subject to subpart J of 40 CFR part 60, will be required to install and operate CEMS's within 1 year of the promulgation date. These monitoring requirements are not new, but previous H_2S and reduced sulfur CEMS installations were contingent upon the Agency's promulgation of PS's. These amendments were published in the **Federal Register** on March 1, 1989 (54 FR 8564) and April 28, 1989 (54 FR 18308).

DATES: *Effective Date:* October 2, 1990.

Judicial review. Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A–88–24, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Room M–1500, 1st Floor, Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger T. Shigehara, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–1063.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

The present monitoring requirements for fuel gas combustion devices under § 60.105(a) (3) and (4) allows the options of monitoring SO_2 after fuel gases are combusted or monitoring H_2S in the fuel gases. Since October 6, 1975 (40 FR 46250), affected facilities choosing to monitor H_2S in the fuel gases have been exempted from the monitoring requirements of § 60.105(a)(4) because PS's for H_2S CEMS's had not been established. This rulemaking will amend the emission monitoring requirements to end this exemption. The effect of this rulemaking will be to require affected facilities to monitor SO_2 after fuel gas combustion or, as an alternative, H_2S in the fuel gas.

When fuel gases are burned in a combustion device, the H_2S is converted to SO_2. The resulting SO_2 concentration is substantially less than the corresponding H_2S in the fuel gas due to dilution from added combustion air. The amount of dilution air required for complete fuel gas combustion hinges upon the makeup of fuel gas components (primarily hydrogen and hydrocarbons) and their stoichiometric need for oxygen. The EPA investigated a number of typical fuel gas compositions and their combustion products and determined that, at zero percent excess air, the concentration of SO_2 formed from combusting fuel gas containing H_2S at the standard level (162 ppm) ranged from 9 to 25 ppm with the majority of values between 15 and 20 ppm. This agrees with the 15- to 20-ppm SO_2 level noted in the background document to the proposed petroleum refineries standard.

Realizing the complexity of establishing the SO_2/H_2S equivalency on a case-by-case basis, EPA has selected 20 ppm to represent the compliance level for SO_2. In addition, rather than requiring monitoring of the effluent after each combustion device, EPA is allowing the monitoring of SO_2 after only one of the combustion devices as long as that one location accurately represents the fuel gas being burned by all of the combustion devices.

During 1978 and 1982, EPA conducted evaluations of H_2S CEMS's and concluded that acceptable H_2S CEMS's were not available (see section 4 of PS 7). However, a State agency and a local agency reported that H_2S CEMS's have been installed under their jurisdiction that are operating satisfactorily. Certification test reports that have been submitted for Agency review indicate that, at least in these cases, acceptable CEMS accuracy and calibration drift (CD) are attainable. Other data from regulatory agencies have shown varying degrees of success in certifying and auditing H_2S CEMS's. Most of these data were taken from H_2S CEMS's of the same type, and instrument performance appears to be linked to operator and maintenance proficiency. Thus, EPA has decided to allow the use of H_2S CEMS's for fuel gases as an alternative to SO_2 CEMS's for combusted fuel gases. For this purpose, PS 7 was proposed.

In reviewing the regulations, EPA determined that the option of controlling SO_2 after combusting the fuel gases was not being used. Also, this option does not appear to be an economically feasible alternative for future consideration. Therefore, mention of this control option is being deleted from the regulation. This action, however, does not prohibit the use of such control devices. In the future, sources that desire to burn fuel gases containing H_2S in excess of 230 mg/dscm and control the resulting SO_2 emissions may petition the Administrator for an alternative compliance demonstration.

Hydrogen sulfide and reduced sulfur emitted from Claus plants are regulated by standards set at 10 and 300 ppm, respectively. Reduced sulfur compounds, though determined separately from H_2S, are also inclusive of H_2S by definition. The Agency has determined that it is difficult to monitor the disproportionate concentrations of H_2S and other reduced sulfur compounds on a continual basis, especially at levels near the standards. Therefore, a separate determination of H_2S apart from other reduced sulfur compounds will not be required, but only the continuous monitoring of reduced sulfur compounds. Performance Specification 5 and Method 15 or 15A will be used to evaluate the reduced sulfur CEMS performance.

For greater flexibility, CEMS that oxidizes the reduced sulfur to SO_2 and analyzes the concentration of the resulting SO_2 will be allowed. Rather than trying to determine the concentration of SO_2 equivalent to the reduced sulfur concentration, EPA will use the level of 250 ppm SO_2 (dry basis, zero percent excess air) to represent the SO_2 compliance level. This concentration is consistent with the control option of combusting the effluent gases under § 60.102(a)(2)(i).

In addition to the above changes, ambiguities in the existing regulations are being clarified by correcting inconsistencies and by specifying pertinent testing procedures that originally were only implied.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, neither does it change any emission standard nor make it more stringent. Rather, the rulemaking will facilitate the use of acceptable CEMS's and allow affected facilities to comply with monitoring requirements to which they are already subject.

II. Public Participation

The opportunity to hold public hearings at 10 a.m. on March 22, 1989 for the proposed subpart J revisions and May 19, 1989 for proposed PS 7 was presented but no one desired to make an oral presentation. The public comment periods were from March 1 to July 12, 1989 for the subpart J revisions and from April 28 to July 12, 1989 for PS 7.

III. Significant Comments and Changes to the Proposed Rulemaking

Seven comment letters were received from the proposal of the rulemakings. The major comments and responses are summarized in this preamble. Most of the comment letters contained multiple comments. The significant comments and subsequent method changes are listed here.

1. One commenter requested that permeation tube calibration systems and scrubbers be allowed as alternatives to Methods 3, 6, and 11 for span calibration and zero checks of CEMS's. The commenter noted that commercially available systems have been found to be extremely accurate and reliable for fuel gas and Claus plant units and are far superior to older, labor-intensive, wet-chemical procedures.

Approving alternatives for specific calibration systems beyond the EPA reference methods is not within the scope of the rulemaking. Written requests for approval should be submitted to the Director of EPA's Technical Support Division. The request must include a clearly defined procedure that can be uniformly followed, supporting data showing the alternative's comparability to the reference method, and procedures addressing the appropriate quality assurance (QA) measures.

2. Another commenter strongly urged EPA to take a "more reasonable" approach to the exemption from the CO CEMS requirement provided in § 60.105(a)(2)(ii). The following reasons were offered to support this stand:

a. A demonstration that CO emissions are less than 50 ppm was thought to be excessively restrictive. Instead, a limit of 30 percent of the standard should be ample to show that a unit is designed for high-efficiency regeneration and that a CEMS is not warranted.

b. Requiring 30 days of continuous monitoring data to demonstrate a CEMS would not be necessary. Although this may be desirable in some instances, it was recommended that performance test data be allowed in lieu of continuous monitoring data.

c. The language in § 60.105(a)(2)(ii) needs clarifying to require that EPA issue an exemption when the required information is submitted with the written request. As proposed, a lack of response from EPA would leave the owner or operator in an unclear compliance status.

d. It was not clear to the commenter if any additional requirements with the revisions [i.e., CEMS relative accuracy (RA) demonstrations] affect owners or operators who submitted requests for exemption under the existing requirements.

The Method 6 flow rate of 2 liters/min in § 60.105(a)(3)(iii) was questioned. With the Method 6 detection limit at 3.4 mg SO_2 when sampling at 1 liter/min for 20 minutes, it was not understood why a larger sample was needed, since this is approximately 6 percent of the 20 ppm standard. This change was considered an added complication, and it was recommended that it be reconsidered. If this change could be truly justified, some flexibility in the sampling flow rate was requested, such as "approximately 2 liters/min."

Finally, the commenter objected to what was thought to be a change to rolling 3-hour averaging periods for determining compliance with § 60.105(a)(3) and (4). It was noted that no rationale for this change was discussed in the supplementary information, and that this was clearly an added recordkeeping requirement, not a clarification. Current rules were thought to require that monitoring records be kept for 3-hour block periods, of which there are eight per day. A 1986 EPA memorandum to directors of EPA Regional air divisions was cited as evidence of the EPA policy of using block averages. By increasing the requirement to rolling 3-hour periods, the Agency would cause a threefold increase to the recordkeeping burden and a triple counting of any extended periods of excess emissions.

The proposed rule does not change the CEMS exemption requirements nor the averaging period of the existing regulation. Therefore, comments to these points and any subsequent changes based on the comments are beyond the scope of this rulemaking.

Concerning the issuance of an exemption, the intent of the wording in § 60.105(a)(2)(ii) is to note that the exemption is contingent upon the Agency's decision after reviewing the submitted demonstration data and exemption request, not upon its submission. Mentioning that an exempted source is not required to perform additional CEMS testing requirements is not necessary since an exemption from monitoring implies that no CEMS will be installed to further test. Under normal situations, a source that has submitted an exemption request is not required to perform additional testing until the Agency makes a decision. In some cases though, the Agency may need to request interim tests. However, if the decision is such that a CEMS must be installed, this CEMS may be subjected to an RA test.

The requirement in § 60.105(a)(3)(iii) to operate Method 6 at 2 liters/min for at least 30 minutes was made to minimize the analytical error that results from measuring small titration volumes. For routine Method 6 analyses, sample titration volumes of at least 2 ml are desired to minimize the error contributed by buret inaccuracy and the averaging of duplicate measurements. To add flexibility and conform with the guidelines given in Method 6, an approximate sampling flow rate of 2 liters/min will be required.

Finally, the requirement for 3-hour rolling SO_2 averages is not a change from current practice. The block averaging period mentioned in the March 1986 memorandum is applicable specifically to determinations of compliance with applicable national air quality standards. Current policy permits emission limits established to comply with such standards to be expressed either as block or rolling averages. The same holds true for compliance with emission control requirements under applicable part 60 standards. In the case in question, the rolling average was the original intent. Thus today's action is not a change from the present requirements.

3. One commenter thought that PS 7 left much to be desired. Basic measures of analyzer performance, such as calibration error, response time, and operational test period were thought to be needed. Having to meet the CD specification on only 6 out of 7 test days would not encourage adjustment of the analyzer when drift exceeds the specification. Compliance with the CD specification without exceptions was preferred, with short-term and zero drift specifications also included. At the very least, language indicating that States may impose additional or more stringent specifications was desired.

The commenter thought that the requirement to report only excess emissions would not allow an agency to take into account performance during compliance periods when determining enforcement action. Requiring sources to report data for all times periods was favored since a different enforcement action may be appropriate for a source that operates most of the time near the standard than for a source that usually operates well below the standard.

Continual CEMS compliance and Appendix F procedures were not mandated for subpart J sources. The PS test procedures are not designed for long-term evaluation nor for continual compliance but to provide the initial check of the instrument's capabilities at the time of installation. The Agency feels that CEMS data accuracy and representativeness can be demonstrated sufficiently by RA and CD tests. A more in-depth evaluation of the CEMS at the discretion of the operator is encouraged, but this additional testing need not be required since the overall quality of monitor data can be determined by the RA and CD tests.

The RA and CD specifications are determined from studies of CEMS performance over extended periods of time. In an Agency study of H_2S CEMS's, the most reliable instruments were only capable of meeting CD's of 5 percent or less on 6 of 7 test days.

The changing of reporting requirements is beyond the scope of this rulemaking. The purpose of the rulemaking is to revise the subpart J monitoring and testing requirements to add clarity and additional information that were originally left out. This does not include revising the reporting criteria that have become a standard procedure for many source categories. Regulations governing State's authority are neither addressed nor regulated in subpart J but in other sections of the regulations.

4. A commenter noted that the wording change to § 60.104 might be construed to limit the exemption of flare gas associated with emergency malfunction situations. This should be clarified by revising the wording to recognize the fact that process upset gases, even when not the direct result of an "emergency malfunction" (e.g., process unit upsets due to changing feedstock, etc.), must be handled by a flare system for safety considerations. The proposed wording has been clarified to reflect this.

5. Another commenter saw no technical reason why the SO_2 CEMS's should not be used for direct compliance with SO_2 emission limitations at subpart J sources. The proposed revisions were thought to be inconsistent with the subpart Db ruling which uses the same

CEMS's as subpart J for direct compliance. The proposed rule also appeared to conflict with current EPA policy (as suggested in an EPA internal memorandum) of using CEMS data in the enforcement process. Because of the quantity of SO_2 emissions from refineries, and due to past experience with several refineries under the commenter's jurisdiction, the enforcement of continuous compliance with SO_2 emission limitations was thought to be imperative.

The commenter also felt that incinerators following Claus plants should be monitored for temperature and oxygen to ensure total sulfur oxidation to SO_2. It was noted that in § 60.153(b)(3), the operators of incinerators located at sewage treatment plants are required to install, calibrate, maintain, and operate temperature devices. Similar language was desired for subpart J incinerators.

The same commenter questioned the flexibility of spans allowed in § 60.105(a)(1) for opacity CEMS's. The commenter argued that the benefits of additional accuracy refinements do not justify the costs as long as Method 9 remains the sole compliance method. The commenter felt that the arguments for allowing the use of CEMS data in lieu of Method 9 observations for compliance determinations were still valid when the CEMS is properly installed, certified, and maintained in accordance with PS 1 of appendix B. It was argued that the Agency either allow the CEMS data for direct compliance or eliminate the allowance for span flexibility.

It was initially determined when the subpart J regulations were developed that the monitoring data would be used to document excess emissions. This requirement cannot be changed in this rulemaking since such a change would constitute a major action instead of a clarification and would require a separate assessment and proposal with accompanying CEMS QA specifications. The oxidation efficiency of the control device will be documented through Method 15 testing for reduced sulfur compounds, and the added requirements for oxygen and temperature CEMS's will not be necessary.

The use of noncompliance CEMS's in the proposed revisions is not inconsistent with EPA policy mentioned in the memorandum. As noted in the memorandum, data from CEMS's that are not the compliance method "should be used to monitor the continuous compliance of sources and to initiate follow-up action including on-site inspections, requesting further information, and issuing a notice of violation."

6. A commenter from industry inquired about a situation in which some of their refinery's facilities were required by the EPA Regional Office and the State agency to install CEMS's under applicable Prevention of Significant Deterioration (PSD) and construction permit requirements even though fuel gas combustion devices have been exempted for H_2S monitoring requirements since 1975. Thirteen analyzers were installed at a significant cost. Twelve of these analyzers were installed between 1977 adn 1983 during EPA's performance evaluation of H_2S CEMS's. Although EPA concluded that acceptable H_2S CEMS's were not available, the refinery was still required to install whatever analyzers were available at that time. In view of this, the commenter made the following recommendations.

a. The CEMS's that were required to be installed by State or Federal permits prior to the proposal date of the subject rule should be exempt from performance specification test (PST) requirements.

b. The regulations should allow bench testing and certification of the CEMS's by the manufacturer.

c. If a facility has installed more than one CEMS of the same make and manufacturer, only one PST need be conducted to certify the remaining CEMS's. The cost of certifying several identical analyzers is significant and an unnecessary expense.

For CEMS's that have already been installed under Regional Office PSD requirements, exemptions or "grandfathering" of new monitoring requirements must be requested on a case-by-case basis through the Regional Office that Required the initial CEMS installation.

The Agency does not feel that CEMS bench testing and certification by the manufacturer represents a fail-safe means of verifying instrument performance. Manufacturers have a vested interest in the outcome of such evaluations. Bench testing may be routinely done to initially demonstrate the reliability of the instrument to the purchaser. However, this should not be substituted for a complete and observed PST after the CEMS has been installed and is functioning under actual conditions.

All CEMS's that are not monitoring the same process stream will need to be evaluated by PST, regardless of make or manufacturer. Experience has shown that, even with identical CEMS's performance can vary from unit to unit. Factors that affect the performance of CEMS's include internal malfunctions that may be specific to individual units as well as operational variables that reflect operator technique. The initial performance of each CEMS can only be verified by testing each unit under actual installed conditions.

7. A commenter recommended that an exemption should be allowed when it is demonstrated that the reduced sulfur H_2S emissions from subject Claus units are well below the respective 300 and 10 ppm standard levels during routine and normal operation. With Sulften tail gas treating units, continuous H_2S CEMS's are already utilized and the reduced sulfur was reported to be barely detectable. Unit upsets and upstream operational problems will reflect loss of optimum operating conditions long before any resultant increased emissions exceed the reduced sulfur regulatory limit. Therefore, an exemption from the continuous monitoring of reduced sulfur and oxygen from these sources should be allowed.

In addition, the commenter recommended that the time period for CEMS installation at affected refineries be extended to at least 18 months to allow sufficient time for procurement, installation, and calibration of the instrument. Where H_2S analyzers are employed as standard equipment for Claus recovery plants, the analyzer may serve as the CEMS, provided it passes the PST and reflects representative measurement of emissions. Monitoring exemptions may be considered in those cases where emissions are routinely much lower than the standard and where there is an economic incentive to operate the device to minimize operational problems and upset conditions. Exemptions for devices that meet these conditions are best considered on case-by-case requests since such devices represent a minority of the total in operation.

The Agency does not think an extension of the CEMS installation period is warranted. Affected sources are notified by the proposed rulemaking of the intended monitoring needs. An approximate period of 1 year between regulation proposal and promulgation affords time to survey the CEMS market. In conjunction with the 1-year installation period, this has proven to be adequate.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development.

The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated revisions and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review (section 307(d)(7)(A)).

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. The Agency has determined that this rulemaking would not result in any of the adverse economic effects set forth in section 1 of the Order as grounds for finding a "major rule." The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of an RFA analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, an analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will not have an impact on small entities because no additional costs will be incurred.

This rule does not change any information collection requirements currently approved by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Information requirements contained in 40 CFR part 60, Appendix A are cleared under OMB Control Number 2060-0022.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, and Petroleum refineries.

Dated: September 21, 1990.

William K. Reilly,

Administrator.

40 CFR part 60 is amended as follows:

PART 60—[AMENDED]

1. The authority for part 60 continues to read:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601.

§ 60.17 [Amended]

2. In § 60.17(a)(56) through (59), mention of "§ 60.106(h)(2)" is revised to read "§ 60.106(j)(2)."

§ 60.103 [Amended]

3. In § 60.103(a), the phrase "gases which contain carbon monoxide in excess of 0.050 percent by volume." is revised to read "gases that contain carbon monoxide (CO) in excess of 500 ppm by volume (dry basis)."

4. In § 60.104, paragraphs (a)(1), (2)(i), and (2)(ii) are revised to read as follows:

§ 60.104 Standards for sulfur oxides.

(a) * * *

(1) Burn in any fuel gas combustion device any fuel gas that contains hydrogen sulfide (H_2S) in excess of 230 mg/dscm (0.10 gr/dscf). The combustion in a flare of process upset gases or fuel gas that is released to the flare as a result of relief valve leakage or other emergency malfunctions is exempt from this paragraph.

(2) * * *

(i) For an oxidation control system or a reduction control system followed by incineration, 250 ppm by volume (dry basis) of sulfur dioxide (SO_2) at zero percent excess air.

(ii) For a reduction control system not followed by incineration, 300 ppm by volume of reduced sulfur compounds and 10 ppm by volume of hydrogen sulfide (H_2S), each calculated as ppm SO_2 by volume (dry basis) at zero percent excess air.

5. In § 60.105, (a)(1) through (a)(7), (a)(13)(i), (d), and (e) are revised, and (a)(14) is removed to read as follows:

§ 60.105 Monitoring of emissions and operations.

(a) * * *

(1) For fluid catalytic cracking unit catalyst regenerators subject to § 60.102(a)(2), an instrument for continuously monitoring and recording the opacity of emissions into the atmosphere. The instrument shall be spanned at 60, 70, or 80 percent opacity.

(2) For fluid catalytic cracking unit catalyst regenerators subject to § 60.103(a), an instrument for continuously monitoring and recording the concentration by volume (dry basis) of CO emissions into the atmosphere, except as provided in paragraph (a)(2)(ii) of this section.

(i) The span value for this instrument is 1,000 ppm CO.

(ii) A CO continuous monitoring system need not be installed if the owner or operator demonstrates that the average CO emissions are less than 50 ppm (dry basis) and also files a written request for exemption to the Administrator and receives such an exemption. The demonstration shall consist of continuously monitoring CO emissions for 30 days using an instrument that shall meet the requirements of Performance Specification 4 of Appendix B of this part. The span value shall be 100 ppm CO instead of 1,000 ppm, and the relative accuracy limit shall be 10 percent of the average CO emissions or 5 ppm CO, whichever is greater. For instruments that are identical to Method 10 and employ the sample conditioning system of Method 10A, the alternative relative accuracy test procedure in § 10.1 of Performance Specification 2 may be used in place of the relative accuracy test.

(3) For fuel gas combustion devices subject to § 60.104(a)(1), an instrument for continuously monitoring and recording the concentration by volume (dry basis, zero percent excess air) of SO_2 emissions into the atmosphere (except where an H_2S monitor is installed under paragraph (a)(4) of this section). The monitor shall include an oxygen monitor for correcting the data for excess air.

(i) The span values for this monitor are 50 ppm SO_2 and 10 percent oxygen (O_2).

(ii) The SO_2 monitoring level equivalent to the H_2S standard under § 60.104(a)(1) shall be 20 ppm (dry basis, zero percent excess air).

(iii) The performance evaluations for this SO_2 monitor under § 60.13(c) shall use Performance Specification 2. Methods 6 and 3 shall be used for conducting the relative accuracy evaluations. Method 6 samples shall be taken at a flow rate of approximately 2 liters/min for at least 30 minutes. The relative accuracy limit shall be 20 percent or 4 ppm, whichever is greater, and the calibration drift limit shall be 5 percent of the established span value.

(iv) Fuel gas combustion devices having a common source of fuel gas may be monitored at only one location (i.e., after one of the combustion devices), if monitoring at this location accurately represents the S_2 emissions into the atmosphere from each of the combustion devices.

(4) In place of the SO_2 monitor in paragraph (a)(3) of this section, an instrument for continuously monitoring and recording the concentration (dry basis) of H_2S in fuel gases before being burned in any fuel gas combustion device.

(i) The span value for this instrument is 425 mg/dscm H_2S.

(ii) Fuel gas combustion devices having a common source of fuel gas may

be monitored at only one location, if monitoring at this location accurately represents the concentration of H_2S in the fuel gas being burned.

(iii) The performance evaluations for this H_2S monitor under § 60.13(c) shall use Performance Specification 7. Method 11 shall be used for conducting the relative accuracy evaluations.

(5) For Claus sulfur recovery plants with oxidation control systems or reduction control systems followed by incineration subject to § 60.104(a)(2)(i), an instrument for continuously monitoring and recording the concentration (dry basis, zero percent excess air) of SO_2 emissions into the atmosphere. The monitor shall include an oxygen monitor for correcting the data for excess air.

(i) The span values for this monitor are 500 ppm SO_2 and 10 percent O_2.

(ii) The performance evaluations for this SO_2 monitor under § 60.13(c) shall use Performance Specification 2. Methods 6 and 3 shall be used for conducting the relative accuracy evaluations.

(6) For Claus sulfur recovery plants with reduction control systems not followed by incineration subject to § 60.104(a)(2)(ii), an instrument for continuously monitoring and recording the concentration of reduced sulfur and O_2 emissions into the atmosphere. The reduced sulfur emissions shall be calculated as SO_2 (dry basis, zero percent excess air).

(i) The span values for this monitor are 450 ppm reduced sulfur and 10 percent O_2.

(ii) The performance evaluations for this reduced sulfur (and O_2) monitor under § 60.13(c) shall use Performance Specification 5, except the calibration drift specification is 2.5 percent of the span value rather than 5 percent. Methods 15 or 15A and Method 3 shall be used for conducting the relative accuracy evaluations. If Method 3 yields O_2 concentrations below 0.25 percent during the performance specification test, the O_2 concentration may be assumed to be zero and the reduced sulfur CEMS need not include an O_2 monitor.

(7) In place of the reduced sulfur monitor under paragraph (a)(6) of this section, an instrument using an air or O_2 dilution and oxidation system to convert the reduced sulfur to SO_2 for continuously monitoring and recording the concentration (dry basis, zero percent excess air) of the resultant SO_2. The monitor shall include an oxygen monitor for correcting the data for excess oxygen.

(i) The span values for this monitor are 375 ppm SO_2 and 10 percent O_2

(ii) For reporting purposes, the SO_2 exceedance level for this monitor is 250 ppm (dry basis, zero percent excess air).

(iii) The performance evaluations for this SO_2 (and O_2) monitor under § 60.13(c) shall use Performance Specification 5. Methods 15 or 15A and Method 3 shall be used for conducting the relative accuracy evaluations.

* * * * *

(13) * * *

(i) The test methods as described in § 60.106(k);

* * * * *

(d) For any fluid catalytic cracking unit catalyst regenerator under § 60.102 that uses an incinerator-waste heat boiler to combust the exhaust gases from the catalyst regenerator, the owner or operator shall record daily the rate of combustion of liquid or solid fossil-fuels (liters/hr or kg/hr) and the hours of operation during which liquid or solid fossil-fuels are combusted in the incinerator-waste heat boiler.

(e) For the purpose of reports under § 60.7(c), periods of excess emissions that shall be determined and reported are defined as follows:

Note: All averages, except for opacity, shall be determined as the arithmetic average of the applicable 1-hour averages, e.g., the rolling 3-hour average shall be determined as the arithmetic average of three contiguous 1-hour averages.

(1) *Opacity.* All 1-hour periods that contain two or more 6-minute periods during which the average opacity as measured by the continuous monitoring system under § 60.105(a)(1) exceeds 30 percent.

(2) *Carbon monoxide.* All 1-hour periods during which the average CO concentration as measured by the CO continuous monitoring system under § 60.105(a)(2) exceeds 500 ppm.

(3) *Sulfur dioxide from fuel gas combustion.* (i) All rolling 3-hour periods during which the average concentration of SO_2 as measured by the SO_2 continuous monitoring system under § 60.105(a)(3) exceeds 20 ppm (dry basis, zero percent excess air); or

(ii) All rolling 3-hour periods during which the average concentration of H_2S as measured by the H_2S continuous monitoring system under § 60.105(a)(4) exceeds 230 mg/dscm (0.10 gr/dscf).

(4) *Sulfur dioxide from Claus sulfur recovery plants.* (i) All 12-hour periods during which the average concentration of SO_2 as measured by the SO_2 continuous monitoring system under § 60.105(a)(5) exceeds 250 ppm (dry basis, zero percent excess air); or

(ii) All 12-hour periods during which the average concentration of reduced sulfur (as SO_2) as measured by the reduced sulfur continuous monitoring system under § 60.105(a)(6) exceeds 300 ppm; or

(iii) All 12-hour periods during which the average concentration of SO_2 as measured by the SO_2 continuous monitoring system under § 60.105(a)(7) exceeds 250 ppm (dry basis, zero percent excess air).

6. In § 60.106, paragraphs (a) through (d) are revised, paragraphs (e) through (h) are redesignated as (g) through (j), and new paragraphs (e), (f) and (k) are added to read as follows:

§ 60.106 Test methods and procedures.

(a) In conducting the performance tests required in § 60.8, the owner or operator shall use as reference methods and procedures the test methods in Appendix A of this part or other methods and procedures as specified in this section, except as provided in § 60.8(b).

(b) The owner or operator shall determine compliance with the particulate matter (PM) standards in § 60.102(a) as follows:

(1) The emission rate (E) of PM shall be computed for each run using the following equation:

$$E = \frac{K\, c_s\, Q_{sd}}{R_c}$$

where:

E = Emission rate of PM, kg/1000 kg (lb/1000 lb) of coke burn-off.

c_s = Concentration of PM, g/dscm (lb/dscf).

Q_{sd} = Volumetric flow rate of effluent gas, dscm/hr (dscf/hr).

R_c = Coke burn-off rate, kg coke/hr (1000 lb coke/hr).

K = Conversion factor, 1.0 $(kg^2/g)/(1000\ kg)$ $[10^3\ lb/(1000\ lb)]$.

(2) Method 5 shall be used to determine the concentration (c_s) of PM and volumetric flow rate (Q_{sd}) of the effluent gas. The sampling time and sample volume for each run shall be at least 60 minutes and 0.90 dscm (31.8 dscf).

(3) The coke burn-off rate (R_c) shall be computed for each run using the following equation:

$$R_c = K_1\, Q_r\, (\%CO_2 + \%CO) K_2\, Q_a - K_3\, Q_r\, [(\%CO/2) + \%CO_2 + \%O_2]$$

where:

R_c = Coke burn-off rate, kg/hr (1000 lb/hr).

Q_r = Volumetric flow rate of exhaust gas from catalyst regenerator before entering the emission control system, dscm/min (dscf/min).

Q_a = Volumetric flow rate of air to FCCU regenerator, as determined from the fluid catalytic cracking unit control room instrumentation, dscm/min (dscf/min).

$\%CO_2$ = Carbon dioxide concentration, percent by volume (dry basis).
%CO = Carbon monoxide concentration, percent by volume (dry basis).
$\%O_2$ = Oxygen concentration, percent by volume (dry basis).
K_1 = Material balance and conversion factor, 0.2982 (kg-min)/(hr-dscm-%) [0.0186 (lb-min)/(hr-dscf-%)].
K_2 = Material balance and conversion factor, 2.088 (kg-min)/(hr-dscm-%)[0.1303 (lb-min)/(hr-dscf-%)].
K_3 = Material balance and conversion factor, 0.0994 (kg-min)/(hr-dscm-%) [0.0062 (lb-min)/(hr-dscf-%)].

(i) Method 2 shall be used to determine the volumetric flow rate (Q_r).

(ii) The emission correction factor, integrated sampling and analysis procedure of Method 3 shall be used to determine CO_2, CO, and O_2 concentrations.

(4) Method 9 and the procedures of § 60.11 shall be used to determine opacity.

(c) If auxiliary liquid or solid fossil-fuels are burned in an incinerator-waste heat boiler, the owner or operator shall determine the emission rate of PM permitted in § 60.102(b) as follows:

(1) The allowable emission rate (E_s) of PM shall be computed for each run using the following equation:

$$E_s = 1.0 + A\,(H/R_c)\,K'$$

where:

E_s = Emission rate of PM allowed, kg/1000 kg (lb/1000 lb) of coke burn-off in catalyst regenerator.
1.0 = Emission standard, kg coke/1000 kg (lb coke/1000 lb).
A = Allowable incremental rate of PM emissions, 0.18 g/million cal (0.10 lb/million Btu).
H = Heat input rate from solid or liquid fossil fuel, million cal/hr (million Btu/hr).
R_c = Coke burn-off rate, kg coke/hr (1000 lb coke/hr).
K' = Conversion factor to units of standard, 1.0 (kg^2/g)/(1000 kg) [10^3 lb^2/(1000 lb)].

(2) Procedures subject to the approval of the Administrator shall be used to determine the heat input rate.

(3) The procedure in paragraph (b)(3) of this section shall be used to determine the coke burn-off rate (R_c).

(d) The owner or operator shall determine compliance with the CO standard in § 60.103(a) by using the integrated sampling technique of Method 10 to determine the CO concentration (dry basis). The sampling time for each run shall be 60 minutes.

(e) The owner or operator shall determine compliance with the H_2S standard in § 60.104(a)(1) as follows: Method 11 shall be used to determine the H_2 concentration. The gases entering the sampling train should be at about atmospheric pressure. If the pressure in the refinery fuel gas lines is relatively high, a flow control valve may be used to reduce the pressure. If the line pressure is high enough to operate the sampling train without a vacuum pump, the pump may be eliminated from the sampling train. The sample shall be drawn from a point near the centroid of the fuel gas line. The sampling time and sample volume shall be at least 10 minutes and 0.010 dscm (0.35 dscf). Two samples of equal sampling times shall be taken at about 1-hour intervals. The arithmetic average of these two samples shall constitute a run. For most fuel gases, sampling times exceeding 20 minutes may result in depletion of the collection solution, although fuel gases containing low concentrations of H_2S may necessitate sampling for longer periods of time.

(f) The owner or operator shall determine compliance with the SO_2 and the H_2S and reduced sulfur standards in § 60.104(a)(2) as follows:

(1) Method 6 shall be used to determine the SO_2 concentration. The concentration in mg/dscm (lb/dscf) obtained by Method 6 is multiplied by 0.3754 to obtain the concentration in ppm. The sampling point in the duct shall be the centroid of the cross section if the cross-sectional area is less than 5.00 m^2 (54 ft^2) or at a point no closer to the walls than 1.00 m (39 in.) if the cross-sectional area is 5.00 m^2 or more and the centroid is more than 1 m from the wall. The sampling time and sample volume shall be at least 10 minutes and 0.010 dscm (0.35 dscf) for each sample. Eight samples of equal sampling times shall be taken at about 30-minute intervals. The arithmetic average of these eight samples shall constitute a run. Method 4 shall be used to determine the moisture content of the gases. The sampling point for Method 4 shall be adjacent to the sampling point for Method 6. The sampling time for each sample shall be equal to the time it takes for two Method 6 samples. The moisture content from this sample shall be used to correct the corresponding Method 6 samples for moisture. For documenting the oxidation efficiency of the control device for reduced sulfur compounds, Method 15 shall be used following the procedures of paragraph (f)(2) of this section.

(2) Method 15 shall be used to determine the reduced sulfur and H_2S concentrations. Each run shall consist of 16 samples taken over a minimum of 3 hours. The sampling point shall be the same as that described for Method 6 in paragraph (f)(1) of this section. To ensure minimum residence time for the sample inside the sample lines, the sampling rate shall be at least 3.0 lpm (0.10 cfm). The SO_2 equivalent for each run shall be calculated after being corrected for moisture and oxygen as the arithmetic average of the SO_2 equivalent for each sample during the run. Method 4 shall be used to determine the moisture content of the gases as the paragraph (f)(1) of this section. The sampling time for each sample shall be equal to the time it takes for four Method 15 samples.

(3) The oxygen concentration used to correct the emission rate for excess air shall be obtained by the integrated sampling and analysis procedure of Method 3. The samples shall be taken simultaneously with the SO_2, reduced sulfur and H_2S, or moisture samples. The SO_2, reduced sulfur, and H_2S samples shall be corrected to zero percent excess air using the equation in paragraph (h)(3) of this section.

* * * * *

(k) The test methods used to supplement continuous monitoring system data to meet the minimum data requirements in § 60.104(d) will be used as described below or as otherwise approved by the Administrator.

(1) Methods 6, 6B, or 8 are used. The sampling location(s) are the same as those specified for the monitor.

(2) For Method 6, the minimum sampling time is 20 minutes and the minimum sampling volume is 0.02 dscm (0.71 dscf) for each sample. Samples are taken at approximately 60-minute intervals. Each sample represents a 1-hour average. A minimum of 18 valid samples is required to obtain one valid day of data.

(3) For Method 6B, collection of a sample representing a minimum of 18 hours is required to obtain one valid day of data.

(4) For Method 8, the procedures as outlined in this section are used. The equivalent of 16 hours of sampling is required to obtain one valid day of data.

* * * * *

§ 60.106 [Amended]

7. In newly redesignated § 60.106(h)(3), (4), and (5), mention of "§ 60.106(f)(2)," "§ 60.106(f)(1)," or "(f)" is revised to read "§ 60.106(h)(2)," "§ 60.106(h)(1)," or "(h)," respectively.

§ 60.106 [Amended]

8. In newly redesignated § 60.106(i), (i)(2)(i), and (i)(7), mention of "(g)(12)," "§ 60.106(g)(3)," or "(g)(6)" is revised to read "(i)(12)," "§ 60.106(i)(3)," or "(i)(6)," respectively.

§ 60.106 [Amended]

9. In newly redesignated § 60.106(i)(7), "(a)(4)" is revised to read "(b)(3)."

§ 60.106 [Amended]

10. In newly redesignated § 60.106(j)(3)(ii), "(h)(2)" is revised to read "(j)(2)."

§ 60.107 [Amended]

11. In § 60.107(b)(1)(ii), "(a)(14)" is revised read to "§ 60.106(k)."

§ 60.107 [Amended]

12. In § 60.107(b)(2), "§ 60.106(g)(12)" is revised to read "§ 60.106(i)(12)."

§ 60.107 [Amended]

13. In § 60.107(c)(1)(i), "§ 60.106(f)" is revised to read "§ 60.106(h)."

§ 60.107 [Amended]

14. In § 60.107(c)(1)(ii), "§ 60.106(g)" in both places is revised to read "§ 60.106(i)."

§ 60.107 [Amended]

15. In § 60.107(c)(1)(iii), "§ 60.106(h)" is revised to read "§ 60.106(j)."

§ 60.108 [Amended]

16. In § 60.108(d), "§ 60.106(g) or (h)" is revised to read "§ 60.106(i) or (j)."

§ 60.109 [Amended]

17. In § 60.109(b)(2), "60.106(g)(12)" is revised to read "60.106(i)(12)."

18. In Appendix B, by adding Performance Specification 7 to read as follows:

Appendix B–Performance Specifications

* * * * *

Performance Specification 7—Specifications and Test Procedures for Hydrogen Sulfide Continuous Emission Monitoring Systems in Stationary Sources

1. Applicability and Principle

1.1 *Applicability.* 1.1.1 This specification is to be used for evaluating the acceptability of hydrogen sulfide (H_2S) continuous emission monitoring systems (CEMS's) at the time of or soon after installation and whenever specified in an applicable subpart of the regulations.

1.1.2 This specification is not designed to evaluate the installed CEMS performance over an extended period of time nor does it identify specific calibration techniques and other auxiliary procedures to assess CEMS performance. The source owner or operator, however, is responsible to calibrate, maintain, and operate the CEMS. To evaluate CEMS performance, the Administrator may require, under Section 114 of the Act, the source owner or operator to conduct CEMS performance evaluations at other times besides the initial test. *See* § 60.13(c).

1.1.3 The definitions, installation specifications, test procedures, data reduction procedures for determining calibration drifts (CD) and relative accuracy (RA), and reporting of Performance Specification 2 (PS 2), Sections 2, 3, 5, 6, 8, and 9 apply to this specification.

1.2 Principle. Reference method (RM), CD, and RA tests are conducted to determine that the CEMS conforms to the specification.

2. Performance and Equipment Specifications

2.1 *Instrument zero and span.* This specification is the same as Section 4.1 of PS 2.

2.2 *Calibration drift.* The CEMS calibration must not drift or deviate from the reference value of the calibration gas or reference source by more than 5 percent of the established span value for 6 out of 7 test days (e.g., the established span value is 300 ppm for subpart J fuel gas combustion devices).

2.3 *Relative accuracy.* The RA of the CEMS shall be no greater than 20 percent of the mean value of the RM test data in terms of the units of the emission standard or 10 percent of the applicable standard, whichever is greater.

3. Relative Accuracy Test Procedure

3.1 Sampling Strategy for RM Tests, Correlation of RM and CEMS Data Number of RM Tests, and Calculations. These are the same as that in PS 2, § 7.1, 7.2, 7.3, and 7.5, respectively.

3.2 Reference Methods. Unless otherwise specified in an applicable subpart of the regulation, Method 11 is the RM for this PS.

4. Bibliography

1. U.S. Environmental Protection Agency. Standards of Performance for New Stationary Sources; Appendix B; Performance Specifications 2 and 3 for SO_2, NO_x, CO_2, and O_2 Continuous Emission Monitoring Systems; Final Rule. 48 CFR 23608. Washington, DC U.S. Government Printing Office. May 25, 1983.

2. U.S. Government Printing Office. Gaseous Continuous Emission Monitoring Systems—Performance Specification Guidelines for SO_2, NO_x, CO_2, O_2, and TRS. U.S. Environmental Protection Agency. Washington, D.C. EPA–450/3–82–026. October 1982. 26p.

3. Maines, G.D., W.C. Kelly (Scott Environmental Technology, Inc.), and J.B. Homolya. Evaluation of Monitors for Measuring H_2S in Refinery Gas. Prepared for the U.S. Environmental Protection Agency. Research Triangle Park, N.C. Contract No. 68–02–2707. 1978. 60 p.

4. Ferguson, B.B., R.E. Lester (Harmon Engineering and Testing), and W.J. Mitchell. Field Evaluation of Carbon Monoxide and Hydrogen Sulfide Continuous Emission Monitors at an Oil Refinery. Prepared for the U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. EPA–600/4–82–054. August 1982. 100 p.

[FR Doc. 90–22983 Filed 10–1–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 16

[CGD 86–067d]

RIN 2115–AC45

Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule revises the pre-employment drug testing requirement for two categories of marine employers: Large employers (those having more than 50 employees) and medium employers (those having from 11 to 50 employees). This change will minimize the need for additional pre-employment testing by these large and medium employers until December 1990 and relieve them of an unintended economic burden caused by implementation of pre-employment testing before the implementation of random testing.

EFFECTIVE DATE: This rule is effective October 2, 1990.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander T. A. Murphy, Project Manager, Marine Investigation Division (G–MMI), Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, (202) 267–2215.

SUPPLEMENTARY INFORMATION: When deciding on appropriate exceptions to pre-employment testing requirements, the Department of Transportation was reviewing drug program rules for six different operating modes. The modal rules generally provided an exception to pre-employment testing for employees who had been covered for a full year by a random testing program conducted by their previous employer. It was the Department's intent that after passing a pre-employment test, employees would be covered by an employer's random testing program and would not need additional pre-employment testing when they changed jobs.

Many large marine employers began pre-employment testing as early as May 1, 1989. Medium employers began pre-employment testing on the December 21, 1989 implementation date. The current Coast Guard regulations provide that maritime personnel subject to an employer's random testing program continuously for the previously twelve months may be excepted from a pre-employment test when changing jobs. Coast Guard random testing was

postponed in response to the Court's decision in *Transportation Institute, et al*, v. U.S. Coast Guard, No 88–3429 (D.D.C., Dec. 18, 1989).

Therefore, until the promulgation of random drug testing regulations, an employee will not be able to use the random program exception from pre-employment testing. Thus, maritime employees who change jobs need to have evidence that they have passed a pre-employment drug test within the past six months in order to be hired without an additional pre-employment drug test.

The January 8, 1990 pre-employment revision (55 FR 634) extended the effective date of some pre-employment tests to relieve the unintended economic burden of repeated testing. At that time, over 20,000 employees of large marine employers had been pre-employment tested since May 1989 at a cost of slightly over one million dollars. While precise figures are not available at this time, since January 1990, additional new employees of both large and medium marine employers have been pre-employment tested. Without a further extension of the effective date for pre-employment tests, these employees will all have to be retested if they change jobs.

The Coast Guard, therefore, is revising § 16.205(a) to provide that employees who have successfully passed a pre-employment test between May 1, 1989 and June 21, 1989, may be deemed to have passed a pre-employment test on June 21, 1990 and therefore, until December 21, 1990, will not need to have further pre-employment testing when they change jobs. The Coast Guard also is revising § 16.205(b) to provide the same benefit to medium employers. These changes will minimize the need for additional pre-employment testing by large and medium employers relieving them of an unintended economic burden.

This rule relieves employers of the unintended economic and administrative burden of additional testing. The Coast Guard finds that notice and public comment are not necessary. Requiring notice and comment would unduly delay the relief sought to be provided by this rule and would, therefore, be contrary to the public interest, and good cause exists under 5 U.S.C. 553(b) to publish this rule without notice and comment. As provided in 5 U.S.C. 553(d)(1), this rule relieves a restriction and may be made effective less than 30 days after publication in the **Federal Register**. The rule will be effective immediately upon publication in the **Federal Register**.

Regulatory Assessment

This final rule revises the requirements for pre-employment testing by medium and large marine employers in the final rule published on November 21, 1988, as modified on June 23, 1989 and on January 8, 1990. It does not change the basic regulatory structure of that rule. Based on currently reported costs of about $50 per test, this revision will relieve medium and large marine employers of an economic burden in excess of one million dollars over the next six months.

Regulatory Flexibility Determination

The amendments in this final rule modify the requirements for pre-employment testing for large employers (who have more than 50 employees) and medium employers (who have between 11 and 50 employees). Pre-employment testing requirements for small employers are not affected. Therefore, the Coast Guard certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not amend the recordkeeping and reporting requirements of the final rule published on November 21, 1988.

Environmental Assessment

The Coast Guard has considered the environmental impact of this amendment to the rules promulgated on November 21, 1988, and concluded that, under section 2.B.2.1. of Commandant Instruction M16475.1B, they are categorically excluded from further environmental documentation.

Federalism Implications

In accordance with Executive Order 12612, the Coast Guard has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 46 CFR Part 16

Seamen, Marine safety, Navigation (Water), Alcohol and alcoholic beverages, Drugs.

Final Rule

For the reasons set forth in the preamble, title 46, chapter I, of the Code of Federal Regulations is amended as follows:

PART 16—[AMENDED]

1. The authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, 7301 and 7701; 49 CFR 1.46.

2. Section 16.205 is amended by revising paragraphs (a) and (b) to read as follows:

§ 16.205 Implementation of chemical testing programs.

(a) Each employer who employs more than 50 employees required to be tested under this part implemented the pre-employment testing program required in § 16.210 not later than July 21, 1989. An employee who passed a pre-employment test under these rules during the period between May 1, 1989, and June 21, 1990, shall be deemed to have successfully passed a pre-employment test on June 21, 1990. All other employer testing programs required by this part, except the random testing program which has been suspended until further notice, were implemented not later than December 21, 1989.

(b) Each employer who employs from 11 to 50 employees required to be tested under this part implemented the pre-employment, serious marine incident and reasonable cause testing programs required by this part not later than December 21, 1989. An employee who has passed a pre-employment test under these rules in the period between October 1, 1989 and June 21, 1990, shall be deemed to have successfully passed a pre-employment test on June 21, 1990.

* * * * *

Dated: September 27, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90–23297 Filed 10–1–90; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[PR Docket No. 89–524; FCC 90–309; RM–6554]

Use of Narrow-Band Direct-Printing (NB–DP) Frequencies in the Maritime Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule would require applicants to submit a showing of need to obtain new or additional narrow-band direct-printing (NB–DP) frequencies. This action was initiated by a petition for rule making (RM–6554) filed September 27, 1988, by Mobile

Marine Radio, Inc. The effect of this rule is to prevent granting NB–DP frequencies to public coast stations that do not need or will not use them efficiently.

EFFECTIVE DATE: November 5, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: George Dillon, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632–7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, PR Docket No. 89–524, adopted September 5, 1990, and released September 24, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The full text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

The following collection of information contained in these rules has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should direct their comments to Bruce McConnell (202) 395–3785, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503. A copy of any comments should also be sent to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554. For further information contact Judy Boley, Federal Communications Commission, (202) 632–7513.

OMB number: 3060–0435
Title: Section 80.361 Frequencies for narrow-band direct-printing (NB–DP) and data transmissions.
Action: New Collection
Respondents: Individuals, state or local governments, businesses (including small businesses), and non-profit institutions.
Frequency of response: On occasion
Estimated annual response: 2 responses; 4 hours total; 2 hours per response
Needs and uses: Rule is needed to ensure spectrum efficiency by requiring applicants to provide justification for frequency assignment.

Summary of Report and Order

1. The Commission amended the Maritime Services Rules (47 CFR part 80) to require applicants to submit a showing of need to obtain new or additional narrow-band direct-printing (MB–DP) frequencies. Public coast station NB–DP operations provide world-wide, high-seas radioteletype service between ships and points on land. Applicants for new or additional NB–DP frequencies would be required to show the schedule of service of each currently licensed or proposed NB–DP frequency and to show a need for additional NB–DP frequencies based upon at least 40 percent usage of existing NB–DP frequencies during the three busiest hours of a specified time. The need showing is meant to prevent granting NB–DP frequencies to public coast stations that do not need or will not use them efficiently, thereby keeping the frequencies available for public coast stations that will use them efficiently.

Final Regulatory Flexibility Analysis

2. Pursuant to the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), our analysis is as follows:

3. *Reason for action.* This action is being taken to incorporate into the Commission's Rules a requirement that applicants for narrow-band direct-printing frequencies justify the need for those frequencies.

4. *Objectives.* The action would prevent granting Nb–DP frequencies to public coast stations that do not need or will not use them efficiently, thereby keeping them available for public coast stations that will.

5. *Legal basis.* The action is authorized under sections 4(i) and 303 (f) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303 (f) and (r).

6. *Reporting, recordkeeping and other compliance requirements.* Public coast station applicants will be required to include in their applications for additional frequencies a traffic showing based on records kept for other purposes.

7. *Federal rules which overlap, duplicate, or conflict with this rule.* None.

8. *Description, potential impact, and number of small entities involved.* The only impact of this rule will be on public coast station applicants and licensees. The requirement will be a small addition to the application. There are currently fewer than ten licensees providing NB–DP services. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new information collection requirement on a small number of licensees. The information that must be submitted is similar to a prior requirement and based on records kept for other purposes. Implementation of any new or modified requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ordering Clauses

9. Accordingly, *It is ordered* that under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, part 80 of the Commission's Rules *is amended*, as set forth in the Appendix below.

10. *It is further ordered* that these rule amendments shall become effective on November 5, 1990.

11. *It is further ordered* that a copy of this *Report and Order* be sent to the Chief Counsel for advocacy of the Small Business Administration.

12. *It is further ordered* that this proceeding *is terminated.*

List of Subjects in 47 CFR Part 80

Maritime services, Narrow-band direct-printing, Radio.

Federal Communications Commission.
Donna R. Searcy,
Secretary.

Rule Changes

Part 80 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. Section 80.361 is amended by revising the introductory text in paragraphs (a) preceding the table and adding concluding text consisting of paragraph (a)(1) through (a)(3) following the table to read as follows:

§ 80.361 Frequencies for narrow-band direct-printing (NB–DP and data transmissions.

(a) The following table describes the frequency pairs available to ship and public coast stations for narrow-band direct-printing (NB–DP) and data transmission.

* * * * *

Applicants for coast station frequencies must submit a substantial showing of need based on the following factors:

(1) The schedule of service provided for licensed frequencies, or that is proposed for new frequencies;

(2) For additional frequency assignments within frequency bands that the applicant is already licensed to operate in, *e.g.* 4 MHz band, 6 MHz band, a factual showing that for any four days within a consecutive ten day period in each of the two months immediately prior to the filing of the application, the applicant has used its currently assigned frequency or frequencies (within that band) an aggregate average of at least 40 percent of the time during the three busiest hours of each day for exchanging communications; and

(3) Any other facts supporting the need for the proposed service.

* * * * *

[FR Doc. 90-23292 Filed 10-1-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 900798-0198]

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: .Emergency rule and notice of closure; extension of effectiveness.

SUMMARY: An emergency rule that (1) Adds wreckfish to the management unit of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), (2) establishes a fishing year for wreckfish commencing April 16, 1990, (3) establishes a commercial quota of 2 million pounds (907,194 kilograms) for the fishing year that commenced April 16, 1990, and (4) establishes a catch limit of 10,000 pounds (4,536 kilograms) per trip is in effect through November 1, 1990. Under that emergency rule, the fishery for wreckfish in the exclusive economic zone (EEZ) off the South Atlantic states was closed on August 8, 1990, when the quota was reached. The Secretary of Commerce (Secretary extends the emergency rule and fishery closure for an additional 90 days (through January 30, 1991) to allow sufficient time to implement an amendment to the FMP that would continue management of the wreckfish resource. The intended effect of this rule is to respond to an emergency in the snapper-grouper fishery be reducing the fishing mortality of wreckfish.

EFFECTIVE DATES: November 2, 1990, through January 30, 1991.

ADDRESSES: Copies of documents supporting this action may be obtained from Robert A. Sadler, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813-893-3722.

SUPPLEMENTARY INFORMATION: Snapper-grouper species are managed under the FMP, prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Under section 305(e)(2)(B) and (e)(3)(B) of the Magnuson Act, the Secretary promulgated an emergency rule (55 FR 32257, August 8, 1990) effective for 90 days (August 3 through November 1, 1990) to reduce the fishing mortality of the wreckfish resource off the South Atlantic states. Under that emergency rule, the Secretary closed the wreckfish fishery on August 8, 1990, when the quota was reached (55 FR 32635, August 10, 1990). The closure was to remain in effect through November 1, 1990, the limit of effectiveness of the emergency rule under which the closure was undertaken. The Secretary extends the emergency rule and the closure for an additional 90 days in accordance with section 305(e)(3)(B) of the Magnuson Act because conditions justifying the emergency action and closure remain unchanged. The 90-day extension will prevent the resumption of wreckfish harvest in the EEZ until more permanent management measures can be implemented.

The management measures in the initial emergency rule were promulgated to prevent a resource collapse. Details concerning the basis for the emergency rule and the classification of the rulemaking are contained in the initial emergency rule and are not repeated here. This extension is necessary to prevent a lapse in management of wreckfish prior to the implementation of Amendment 3 to the FMP that will continue appropriate management measures. a proposed rule to implement Amendment 3 was published in the **Federal Register** on September 24, 1990 (55 FR 39023).

As required by section 305(e)(3)(B) of the Magnuson Act, the Secretary and the Council have agreed that the emergency rule should be promulgated for an additional period of 90 days. Accordingly, the provisions of the emergency rule, as published on August 8, 1990 (55 FR 32257), and the notice of closure, as published on August 10, 1990 (55 FR 32635), remain effective through January 30, 1991.

Other Matters

This extension of an emergency rule is exempt from the normal review procedures of E.O. 12291 as provided for in section 8(a)(1) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 26, 1990.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90-23301 Filed 10-01-90; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 656

[Docket No. 90650-0244]

RIN 0648-AB25

Atlantic Striped Bass Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule prohibiting the harvest and possession of Atlantic striped bass in the exclusive economic zone (EEZ) 3-200 nautical miles (5.6-370.6 km) offshore from Maine through Florida. This final rule is promulgated under the Atlantic Striped Bass Conservation Act Appropriations Authorization (Act), Public Law 100-589. The Act requires the Secretary of Commerce (Secretary), after certain consultations, to issue regulations governing fishing for Atlantic striped bass in the Atlantic EEZ. Under these regulations, harvest of Atlantic striped bass from the Atantic Coast EEZ is prohibited. Additionally, possession by a person of Atlantic striped bass is prohibited in the Atlantic EEZ, with the following exception: In the EEZ within Block Island Sound, north of a line connecting Montauk Point Light, Montauk Point, New York, and Block Island Southeast Light, Block Island, Rhode Island; and west of a line connecting Point Judith Light, Point Judith, Rhode Island and Block Island

Southeast Light, Block Island, Rhode Island. Within this geographical area, Atlantic striped bass may be possessed and transported aboard a vessel through the EEZ, provided that the vessel with Atlantic striped bass aboard is not used for fishing while in the EEZ, and the vessel remains in continuous transit. Additionally, no bycatch of Atlantic striped bass from the EEZ may be retained. These regulations provide protection to the Atlantic Coast striped bass and ensure the effectiveness of state regulations.

EFFECTIVE DATE: November 1, 1990.

ADDRESSES: Copies of the environmental assessment/regulatory impact review are available from Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: David G. Deuel or Austin R. Magill, 301–427–2347.

SUPPLEMENTARY INFORMATION:

Background

Section 6 of the Act requires that "[t]he Secretary of Commerce shall promulgate regulations on fishing for Atlantic striped bass in the EEZ that the Secretary determines to be consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801) and necessary and appropriate to—(1) Ensure the effectiveness of State regulations or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a coastal state; and (2) achieve conservation and management goals for the Atlantic striped bass resource." In developing the regulations, the Secretary shall consult with the Atlantic States Marine Fisheries Commission (ASMFC), the appropriate Regional Fishery Management Councils (Councils), and each affected Federal, state and local government entity. Section 6 of the Act specifies that any regulations imposed would cease to have force and effect at the close of September 30, 1991. Section 6 also states that the appropriate Councils may prepare a fishery management plan (FMP) for Atlantic striped bass in the EEZ, which, if approved and implemented, would supersede any regulations promulgated by the Secretary.

In response to the requirements of section 6 of the Act, the NMFS developed several regulatory options for the EEZ and consulted with the ASMFC; the New England and Mid-Atlantic Councils; and other affected Federal and state entities. Because of rather divergent views, NMFS determined that a full record of comment was necessary before determining whether to proceed with a proposed rule. Therefore, an advance notice of proposed rulemaking (ANPR), published August 16, 1989, at 54 FR 33735, requested public comment on proposed options. The comments received in response to the ANPR favored a ban on the harvest from the EEZ. An issue identified by the Striped Bass Management Board of the ASMFC and the New England Fishery Management Council was the need to transport through the EEZ Atlantic striped bass that were legally taken in state waters. A person harvesting Atlantic striped bass legally at Block Island, Rhode Island, must traverse the EEZ to transport the fish by boat to the mainland. This was accommodated in the proposed rule (55 FR 25677; June 22, 1990) by allowing a person to transport Atlantic striped bass through the EEZ, provided that person does not engage in fishing while in the EEZ. However, in response to comments received, the final rule prohibits possession of Atlantic striped bass in the EEZ, except in an area of Block Island Sound, as defined below.

This action is intended to protect the stocks of Atlantic striped bass in the EEZ and ensure effectiveness of state regulations for reasons discussed in the preamble to the proposed rule, which are not repeated here. Additionally, consistency of these actions with the national standards of the Magnuson Act was also discussed in the preamble to the proposed rule and is not repeated here.

Comments and Responses

Written comments regarding the proposed rule were submitted by: The Mid-Atlantic Fishery Management Council; the ASMFC; the State of Delaware, Division of Fish and Game; the Maryland Department of Natural Resources, Tidewater Administration; the New York State Department of Environmental Conservation, Division of Marine Resources; the Commonwealth of Massachusetts, Division of Marine Fisheries; the State of North Carolina, Division of Marine Fisheries; the Department of the Interior, Office of Environmental Affairs; the U.S. Coast Guard; the Sport Fishing Institute; the Times Mirror Magazines; the Atlantic Sportfishing Association; the National Coalition for Marine Conservation; and one individual from the State of Virginia.

Comment: The Mid-Atlantic Fishery Management Council supported the proposed rule, but suggested that possession of Atlantic striped bass on a vessel in the EEZ while the vessel is not engaged in fishing be allowed only in the area between Block Island and the Rhode Island mainland. Thus, possession of Atlantic striped bass would be prohibited at all times in the remainder of the EEZ. The Department of the Interior also supported the prohibition on harvest, but suggested that the provision for possession be allowed only between Block Island and the mainland and that vessels receive permits to transport Atlantic striped bass through the EEZ. The Coast Guard commented that prohibiting possession would be very difficult to enforce and suggested that possession of Atlantic striped bass be prohibited on a vessel unless that vessel is in continuous transit from one location in state waters to another location in state waters.

Response: NOAA agrees in part with these comments. The final rule allows possession of Atlantic striped bass in the EEZ only within Block Island Sound north of a line connecting Montauk Light, Montauk Point, New York and Block Island Southeast Light, Block Island, Rhode Island; and west of a line connecting Point Judith Light, Point Judith, Rhode Island and Block Island Southeast Light, Block Island, Rhode Island. In this area, possession of Atlantic striped bass is permitted, provided no fishing takes place from the vessel with Atlantic striped bass aboard while in the EEZ and the vessel is in continuous transit. NOAA makes this change in the final rule to provide for better enforcement of the regulations in the EEZ, while still allowing fishermen to take Atlantic striped bass from Block Island (in Rhode Island state waters) and legally transport (in the geographical area specified above) them to the mainland. NOAA limits this exception to the Rhode Island area because the only location where a fisherman can take Atlantic striped bass legally in state waters and *must* traverse the EEZ en route to the mainland is Block Island, Rhode Island.

Comment: The Maryland Tidewater Administration opposed the proposed rule and provided three specific comments. First, the proposed rule prohibiting the possession of Atlantic striped bass while the vessel is engaged in fishing in the EEZ would apply only to fish caught in the EEZ and not to fish caught outside the EEZ. The second comment indicated that in § 656.2, "fishing or to fish" was defined as pertaining to only Atlantic striped bass, while § 656.3(c) only prohibited possession of Atlantic striped bass

while a vessel is engaged in fishing; thus the proposed rule would have only prohibited the possession of Atlantic striped bass while the vessel is engaged in fishing for Atlantic striped bass, but did not prohibit possession of Atlantic striped bass while fishing for other species. The third comment indicated that the proposed rule would be unenforceable.

Response: One intent of the proposed rule was to allow the possession during transit through the EEZ of Atlantic striped bass taken legally from state waters. As discussed above, prohibiting the possession of these fish on a vessel while transiting the EEZ would not allow a fisherman to return by vessel to the mainland with Atlantic striped bass taken legally from Rhode Island state waters; the final rule accommodates this situation.

NOAA has changed the definition of "fishing or to fish" in the final rule to include fishing for any species of finfish or shellfish, which prohibits the possession of Atlantic striped bass while engaged in fishing for other species. The change in the definition of "fishing or to fish" and the geographical restriction of the area of the EEZ where possession is allowed (only if not fishing) facilitates enforcement of the final rule.

Comment: The State of Delaware, the Sport Fishing Institute, the National Coalition for Marine Conservation, the Times Mirror Magazines, the Atlantic Sportfishing Association, and one individual from Virginia supported the proposed rule as written, indicating the need for conservation of the stocks in the EEZ. Delaware also favored implementation of the proposed rule to prevent any "loopholes" in state regulations from becoming a problem. The Sport Fishing Institute and the National Coalition for Marine Conservation stated that the proposed regulations would facilitate the enforcement of state regulations, since state enforcement personnel would not be faced with determining the origin of Atlantic striped bass while trying to enforce state regulations.

Response: The final rule as implemented is more restrictive than the proposed rule, providing for even greater enforceability and conservation for the stocks, as well as help ensure the effectiveness of state regulations.

Comment: The ASMFC, the New York Division of Marine Resources, the Massachusetts Division of Marine Fisheries, and the North Carolina Division of Marine Fisheries stated that they did not support the proposed rule. The ASMFC commented that the prohibition on harvest of Atlantic striped bass in the EEZ, while harvest was legal in adjoining state waters, would be confusing to the public and law enforcement agencies. New York indicated that state landing laws would make regulating the harvest in the EEZ unnecessary.

Massachusetts commented that the proposed rule is totally unnecessary, based on limited historical harvest in the EEZ, the existence of state landing laws to regulate the harvest from the EEZ (except in Pennsylvania), and their opinion that there are no known existing "loopholes" in any other state landing laws. The latter comment is based on a "review" of state laws by ASMFC. Massachusetts suggested that it would be easier to monitor the port of Philadelphia than the entire EEZ. The North Carolina Division of Marine Fisheries stated that the proposed rule is unnecessary because management actions by the states and ASMFC will achieve management objectives; and that the rule would violate the Magnuson Act's national standard 4 by discriminating against North Carolina trawler fishermen, would cause wastage of otherwise legal Atlantic striped bass if taken under state rules within the 3-mile limit, and would limit a state's ability to manage Atlantic striped bass through a bycatch fishery. North Carolina also indicated that the states, through the ASMFC Plan, should be given the opportunity to achieve the management objectives of the Plan without additional federal rules.

Response: NOAA believes that the issue of confusion for the public and enforcement is not relevant, inasmuch as different regulations for Atlantic striped bass exist among states. The final rule implemented by this rulemaking is not complex and should be easily understood. The comment from New York and Massachusetts that state landing regulations would "regulate" the harvest from the EEZ may apply for New York and Massachusetts, but NOAA believes that it has not been conclusively demonstrated that there are no "loopholes" in the laws of each of the Atlantic coastal states that could allow landings of large quantities of Atlantic striped bass from the EEZ; nor is NOAA assured that states will not amend their regulations, thereby creating loopholes even if none now exist. An example is the apparent lack of adequate landing laws in Pennsylvania to regulate landing of Atlantic striped bass. NOAA believes that the potential for similar situations in other states remains, and that the prohibition on harvest of Atlantic striped bass from the EEZ is necessary to prevent potential damage to the stocks.

NOAA has determined that dockside enforcement, such as suggested by Massachusetts, would be ineffective, because the origin of harvest of Atlantic striped bass seen at dockside could not be determined. NOAA does not agree with the comment by the North Carolina Division of Marine Fisheries that this rule is unnecessary as it pertains to potential damage to the stocks. Also, NOAA concludes that this rule does not discriminate against residents of North Carolina because the prohibition of harvest is uniform throughout the range of the Atlantic striped bass in the EEZ. Additionally, NOAA does not believe that the rule will prevent a state from having a bycatch fishery for Atlantic striped bass; a state may, through state regulations, allow Atlantic striped bass to be taken legally from state waters in fisheries directed on other species. NOAA does not believe that there would be any wastage of legally taken Atlantic striped bass taken under state regulations in state waters. The rule prohibits a fisherman from entering the EEZ with Atlantic striped bass taken legally from state waters. This prohibition should encourage fishermen to fish first in the EEZ if they want to harvest Atlantic striped bass from state waters *and* fish in the EEZ on a single trip. Finally, NOAA believes, as stated in the Proposed Rule, that the states have the primary responsibility for management of Atlantic striped bass and this rule complements and supports the state management activities under the ASMFC Plan.

Changes From the Proposed Rule

Based on comments received on the proposed rule, the following changes were made in the final rule:

(1) Under § 656.2, Definitions, the definition of "fishing or to fish" in the proposed rule referred to the catching, taking or harvesting of Atlantic striped bass. In the final rule, "fishing or to fish" has been modified to refer to the catching, taking, or harvesting of fish. "Fish" has been defined in the final rule to include finfish (including highly migratory species), mollusks, crustaceans, and all other forms of marine animal and plant life. Thus, under the final rule, possession of Atlantic striped bass is permitted in the EEZ only in the Block Island Sound area (as defined elsewhere in this preamble and in § 656.3(c)) when no fishing is taking place from the vessel.

Additionally, the definition of "retain" has been revised. The speedy release and return to the sea is critical to the

survival of striped bass captured in any manner. The final rule definition eliminates the "reasonable opportunity" to return the fish to the sea, which was in the proposed rule, and determined to be unenforceable.

(2) Under § 656.3, the proposed rule would have allowed possession of Atlantic striped bass in the Atlantic coast EEZ, provided that the vessel was not engaged in fishing. This possession provision was made to accommodate transporting Atlantic striped bass taken from state waters to the mainland. NOAA has determined that this provision is necessary only in a narrowly-defined area. Thus, the final rule prohibits possession of Atlantic striped bass in the Atlantic EEZ, except for the following area: The EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, New York and Block Island Southeast Light, Block Island, Rhode Island; and west of a line connecting Point Judith Light, Point Judith, Rhode Island and Block Island Southeast Light, Block Island, Rhode Island. Within this area, possession of Atlantic striped bass is permitted provided no fishing takes place from a vessel while in the EEZ and the vessel is in continuous transit.

(3) Under § 656.3(a), the prohibition in the proposed rule included to "(f)ish for" striped bass. To facilitate enforcement, this specific language has been removed in the final rule, which prohibits the taking or retention of Atlantic striped bass.

(4) The proposed rule stated that, as mandated in the Act, regulations imposed by the Secretary on fishing for Atlantic striped bass in the EEZ would expire coincident with the expiration of the Act on September 30, 1991. However, if the Act is reauthorized, the regulations implemented in this final rule will continue to be effective. If the Act is not reauthorized, the regulations in this rule will be drawn through a document published in the **Federal Register**. Thus, the final rule does not include an expiration date for the regulations.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that these regulations are consistent with the Atlantic Striped Bass Act Appropriations Authorization, Public Law 100–589, and the Magnuson Act, 16 U.S.C. 1851 *et seq.*, are necessary and appropriate to ensure the effectiveness of state regulations pertaining to Atlantic striped bass, and will achieve conservation and management goals for the Atlantic striped bass resource.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Florida. Georgia does not have an approved coastal zone management program. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. Maine, New Hampshire, Connecticut, New York, New Jersey, North Carolina and South Carolina agreed with this determination. Massachusetts, Rhode Island, Delaware, Maryland, Virginia, and Florida did not respond within the statutory time period and, therefore, consistency is automatically inferred.

The Assistant Administrator has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order (E.O.) 12291. This determination is based on the regulatory impact review (RIR), which concludes that the benefits of the rule outweigh the costs, that there are no significant negative impacts on small businesses, and that there are no mandatory reporting requirements.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

NOAA prepared an environmental assessment (EA) for this action and concluded that there will be no significant impact on the environment as a result of this rule. Interested reviewers may obtain a copy of the assessment and finding of no significant impact (see ADDRESSES).

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

The Deputy Assistant Secretary of Commerce for Intergovernmental Affairs determined that the proposed management measures and regulations had sufficient federalism implications to warrant preparation of a federalism assessment (FA). The FA concluded that the regulations are consistent with the principles, criteria, and requirements of E.O. 12612 set forth in sections 2 through 5. The rule does not affect the states' abilities to discharge traditional state government functions or other aspects of state sovereignty.

List of Subjects in 50 CFR Part 656

Fishing, Fisheries.

Dated: September 26, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR chapter VI is amended by adding part 656 to read as follows:

PART 656—ATLANTIC STRIPED BASS FISHERY

Sec.

Authority: 16 U.S.C. 1851 note.

§ 656.1 Purpose and scope.

The regulations in this part implement section 6 of the Atlantic Striped Bass Conservation Act Appropriations Authorization, Public Law 100–589, and govern fishing for and possession of Atlantic striped bass in the EEZ on the Atlantic coast.

§ 656.2 Definitions.

The terms used in this part have the following meanings:

Act means the Atlantic Striped Bass Conservation Act Appropriations Authorization, Public Law 100–589.

Area of Custody means any vessel, building, vehicle, live car, pound, pier, or dock facility where Atlantic striped bass might be found.

Atlantic striped bass means members of stocks or populations of the species *Morone saxatilis*, found in the waters of the Atlantic Ocean north of Key West, Florida.

Authorized officer means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or state agency that has entered into an agreement with the Secretary to enforce the Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Block Island Southeast Light means the aid to navigation light located at Southeast Point, Block Island, Rhode Island, and defined as follows: Located at 40° 09.2'N., 71° 33.1'W; is 201 feet (61.3 m) above the water; and is shown from a brick octagonal tower 67 feet (20.4 m) high attached to a dwelling on the

southeast point of Block Island, Rhode Island.

Continuous transit means that a vessel remains continuously underway while in the EEZ.

EEZ means the Exclusive Economic Zone of the United States, from 3 to 200 nautical miles (5.6–370.6 km) offshore of the United States, beginning at the seaward boundary of the territorial sea of the coastal states.

Fish means finfish (including highly migratory species), mollusks, crustaceans, and all other forms of marine animal and plant life.

Fishing or *to fish* means:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking or harvesting of fish; or

(c) Any operation at sea in support of, or in preparation for, any activity described in paragraphs (a) or (b) of this definition.

(d) The term does not include any scientific research authorized by the Federal Government or by any state government.

Fishing vessel means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for:

(a) Fishing; or

(b) Aiding and assisting one or more vessels at sea in the performance of any activity related to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Land means to begin offloading fish, to offload fish, or to enter port with fish.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

Montauk Light means the aid to navigation light located at Montauk Point, New York, and defined as follows: Located at 41° 04.3'N., 71° 51.5'W.; is shown from an octagonal, pyramidal tower, 108 feet (32.9 m) high, and has a covered way to a dwelling.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, state, local, or foreign government or any entity of any such government.

Point Judith Light means the aid to navigation light located at Point Judith, Rhode Island, and defined as follows: located at 41° 21.7'N., 71° 28.9'W.; is 65 feet (19.8 m) above the water; and is shown from an octagonal tower 51 feet (15.5 m) high.

Retain means to fail to return Atlantic striped bass to the sea immediately after the hook has been removed or the fish has otherwise been released from the capture gear.

Secretary means the Secretary of Commerce or a designee.

§ 656.3 Prohibitions.

No person shall:

(a) Take and retain any Atlantic striped bass within the EEZ;

(b) Fail to return to the water immediately, with the least possible injury, any Atlantic striped bass taken within the EEZ incidental to the commercial or recreational fishing for species of fish other than Atlantic striped bass;

(c) Possess any Atlantic striped bass on board a fishing vessel while such vessel is in the Atlantic coast EEZ, except for the following area: The EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, New York and Block Island Southeast Light, Block Island, Rhode Island; and west of a line connecting Point Judith Light, Point Judith, Rhode Island and Block Island Southeast Light, Block Island, Rhode Island. Within this area, possession of Atlantic striped bass is permitted, provided no fishing takes place from the vessel while in the EEZ and the vessel is in continuous transit;

(d) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land, import or export, any Atlantic striped bass taken and retained in violation of the Act or the regulations in this part;

(e) Interfere with, obstruct, delay, or prevent by any means a lawful investigation, search or seizure conducted in the process of enforcing the Act;

(f) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, transporting, purchase, sale, or transfer of any Atlantic striped bass;

(g) Refuse to allow an authorized officer to board any fishing vessel or to enter any area of custody for the purpose of conducting any search, inspection or seizure in connection with the enforcement of the Act or the regulations in this part;

(h) Dispose of any Atlantic striped bass, or parts, or other matter, in any manner, after any communication or signal from an authorized officer, or after the approach by an authorized officer or an enforcement vessel;

(i) Forcibly assault, resist, oppose, impede, intimidate, threaten or interfere with any authorized officer in the conduct of any search, inspection, or seizure in connection with enforcement of the Act or the regulations in this part;

(j) Resist a lawful arrest for any act prohibited by the Act or these regulations;

(k) Interfere with, delay, or prevent by any means the apprehension of another person, knowing that such person has committed any act prohibited by the Act or the regulations in this part.

§ 656.4 Relation to the Magnuson Act.

The provisions of sections 307 through 311 of the Magnuson Act, as amended, regarding prohibited acts, civil penalties, criminal forfeitures, and enforcement apply with respect to the regulations in this part as if the regulations in this part were issued under the Magnuson Act.

§ 656.5 Civil procedures.

The civil procedure regulations at 15 CFR part 904 apply to civil penalties, seizures, and forfeitures under the Act and the regulations in this part.

[FR Doc. 90–23244 Filed 10–1–90; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 91050–0019]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of rescission of closure to directed fishing and increased observer coverage; request for comments.

SUMMARY: NOAA announces the rescission of a previous notice of closure for domestic annual processing (DAP) of "Other Rockfish" in the Western Regulatory Area of the Gulf of Alaska. Required observer coverage is expanded to 100 percent coverage for all vessels participating in this fishery. These actions are necessary to assure optimum use of groundfish in the Gulf of Alaska. The intent of these actions is to promote fishery objectives of the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska.

DATES: Effective 12 noon, Alaska local time (A.l.t.), September 27, 1990.

Comments are invited on or before October 12, 1990.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668, or be delivered to room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR 611.92 and part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000–800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and apportioned among the regulatory areas and districts.

The 1990 TAC specified for "Other Rockfish" in the Western Regulatory Area is 4,300 mt (55 FR 3223, January 31, 1990). Under § 672.20(c)(3), the Regional Director declared that "Other Rockfish" in this area should be treated in the same manner as prohibited species when he determined that the TAC for "Other Rockfish" would be reached by August 3, 1990 (55 FR 32261, August 8, 1990).

This closure was predicted from high rates of harvest that proved to be discontinuous. Catch rates were substantially lower than predicted, and 2,551 mt of "Other Rockfish" remained in the Western Regulatory Area after the closure. Therefore, on August 16, 1990, the Secretary rescinded the August 3, 1990, closure to avoid underharvest of the TAC (55 FR 34263, August 22, 1990).

On August 31, 1990, the Regional Director determined that the TAC for "Other Rockfish" in the Western Regulatory Area would be reached and consequently issued a notice prohibiting retention of "Other Rockfish" in the Western Regulatory Area (55 FR 36651, September 6, 1990).

Subsequently, the Regional Director has determined that 570 mt of "Other Rockfish" remains unharvested in the Western Regulatory Area and that ongoing groundfish operations are being unnecessarily constrained under the existing closure. Consequently, he is rescinding the previously issued notice of closure, thereby allowing directed fishing for "Other Rockfish" in the Western Regulatory Area of the Gulf of Alaska by vessels in DAP operations. The rescission is effective 12 noon, A.l.t., September 27, 1990, and remains in effect through midnight, A.l.t., December 31, 1990, subject to other closures prior to that date.

Section 672.27(c)(1) provides that, if required to do so by the Regional Director, the operator of a vessel must carry an observer aboard the vessel whenever fishing or processing operations are conducted. Given the relatively small harvest amount of "Other Rockfish" still available for the Western Regulatory Area, the anticipated level of effort in this fishery, and the difficulties the Regional Director has experienced in catch monitoring, the Regional Director has determined that complete observer data will be required to prevent exceeding the remaining TAC. Consequently, the Regional Director requires that the operator of each vessel participating in the "Other Rockfish" fishery carry an observer on board the vessel whenever engaging in directed fishing for "Other Rockfish" within the Western Regulatory Area of the Gulf of Alaska.

The Regional Director finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice. Immediate effectiveness of this notice is necessary to benefit U.S. fishermen participating in DAP operations who would otherwise be prohibited from fishing due to a premature fishery closure, while assuring adequate catch data collection for monitoring purposes. However, interested persons are invited to submit comments in writing to the address above on or before October 12, 1990.

Classification

This action is taken under §§ 672.20(c)(3) and 672.27(c)(1) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting Requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: September 27, 1990.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–23291 Filed 9–27–90; 2:29 am]

BILLING CODE 3510–22–M

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50 CFR Part 672

[Docket No. 91050–0019]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of rescission of closure to directed fishing and increased observer coverage; request for comments.

SUMMARY: NOAA announces the rescission of a previous notice of closure for domestic annual processing (DAP) of sablefish in the Western Regulatory Area of the Gulf of Alaska. Required observer coverage is expanded to 100 percent coverage for all vessels participating in this fishery. These actions are necessary to assure optimum use of groundfish in the Gulf of Alaska. The intent of these actions is to promote fishery objectives of the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska.

DATES: *Effective* 12 noon, Alaska local time (A.l.t.), September 27, 1990.

Comments are invited on or before October 12, 1990.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668, or be delivered to room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, 907–586–7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR 611.92 and part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000–800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and apportioned among the regulatory areas and districts.

The 1990 TAC specified for sablefish in the Western Regulatory Area is 3,770 mt, of which the trawl share is 750 mt (55 FR 3223, January 31, 1990). The TAC allocated to trawl gear was designated as bycatch to support directed fisheries for other groundfish species; therefore, the Secretary prohibited directed fishing for sablefish in the Gulf of Alaska with trawl gear during the 1990 fishing year (55 FR 3230, January 31, 1990).

Currently, 447 mt of the trawl share of sablefish remains unharvested in the Western Regulatory Area. The Regional Director has reviewed the status of sablefish and has determined that ongoing groundfish trawl fisheries operations are being unnecessarily constrained under the existing directed fishing closure. Consequently, he is

rescinding the previously issued notice of closure, thereby allowing directed fishing for sablefish with trawl gear in the Western Regulatory Area of the Gulf of Alaska by vessels in DAP operations. Rescission is effective 12 noon, A.l.t., September 27, 1990, and remains effective through midnight, A.l.t., December 31, 1990, subject to other closures prior to that date.

Section 672.27(c)(1) provides that, if required to do so by the Regional Director, the operator of a vessel must carry an observer aboard the vessel whenever fishing or processing operations are conducted. Given the relatively small harvest amount for the sablefish fishery still available, the anticipated level of effort in this fishery, and the difficulties the Regional Director has experienced in monitoring catch, the Regional Director has determined more complete observer data will be required to prevent exceeding the remaining TAC. Consequently, the Regional Director requires that the operator of each vessel participating in the trawl sablefish fishery carry an observer on board the vessel whenever engaging in directed fishing for sablefish with trawl gear within the Western Regulatory Area of the Gulf of Alaska.

The Regional Director finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice. Immediate effectiveness of this notice is necessary to benefit U.S. fishermen participating in DAP operations who would otherwise be prohibited from fishing due to a premature fishery closure, while assuring adequate catch data collection for monitoring purposes. However, interested persons are invited to submit comments in writing to the address previously cited on or before October 12, 1990.

Classification

This action is taken under §§ 672.20 (c)(2) and (g) and § 672.27(c)(1) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: September 27, 1990.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-23290 Filed 9-27-90; 2:29 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 191
Tuesday, October 2, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2412

Privacy Act; New Exempt System of Records

AGENCY: Federal Labor Relations Authority (FLRA).

ACTION: Proposed rule and request for comments.

SUMMARY: The FLRA is establishing a new system of records under the Privacy Act of 1974, as amended, to consist of the investigative files of the FLRA's Office of the Inspector General (OIG). Pursuant to a determination by the Chairman of the FLRA, this proposed rule adds 5 CFR 2412.16 to exempt the system of records from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a (j) and (k). By relieving the OIG of certain restrictions, the exemptions will help ensure that the OIG may efficiently and effectively perform investigations and other authorized duties and activities.

DATES: Comments must be received on or before November 1, 1990.

ADDRESSES: Forward comments to the Office of the Solicitor, Federal Labor Relations Authority, 500 C Street, SW., Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT: Paul D. Miller, Inspector General, FLRA, 500 C Street, SW., Washington, DC 20424, (202) 382–6002.

SUPPLEMENTARY INFORMATION: Elsewhere in today's Federal Register, the FLRA is publishing a proposed system notice to establish a new system of records, "FLRA/OIG–1, Office of the Inspector General Investigative Files," under the Privacy Act, 5 U.S.C. 552a, as amended. The following proposed amendment of the FLRA's Privacy Act regulations, 5 CFR part 2412, exempts the new system of records from certain provisions of the Act. These provisions require, among other things, that the agency provide notice when collecting information, account for certain disclosures, permit individuals access to their records, and allow them to request that the records be amended. These provisions would interfere with the conduct of OIG investigations if applied to the OIG's maintenance of the proposed system of records.

Accordingly, it is proposed to exempt this new system of records from specified provisions of the Privacy Act, pursuant to sections (j)(2) and (k)(2) of the Act. Section (j)(2), 5 U.S.C. 552a(j)(2), makes provision for exempting a system of records "maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws * * *," and which consists of:

(1) Information complied for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informats and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

Section (k)(2), 5 U.S.C. 552a(k)(2), makes provision for exempting a system of records consisting of "investigatory material compiled for law enforcement purposes," where such materials are not within the scope of the (j)(2) exemption pertaining to criminal law enforcement.

Where applicable, section (j)(2) may be invoked to exempt a system of records from any Privacy Act provision except: 5 U.S.C. 552a(b) (conditions of disclosure); (c) (1) and (2) (accounting of disclosures and retention of accounting, respectively); (e)(4) (A) through (F) (system notice requirements); (e) (6), (7), (9), (10), and (11) (miscellaneous agency requirements relating to system maintenance); and (i) (criminal penalties). Section (k)(2) may be invoked to exempt a system or records from 5 U.S.C. 552a(c)(3) (making accounting of disclosure available to the subject individual), (d) (access to records), (e)(1) (maintaining only relevant and necessary information), (e)(4) (G) through (I) (notice of certain procedures), and (f) (promulgation of certain Privacy Act rules).

The proposed system of records contains information covered by the (j)(2) and (k)(2) exemptions. The OIG investigatory files are maintained pursuant to official investigational and law enforcement functions of the FLRA's Office of the Inspector General under the authority of the 1988 amendments to the Inspector General Act of 1978. *See* Pub. L. No. 100–504, amending Pub. L. No. 95–452, 5 U.S.C. app. at 1184 (1988). With reference to 5 U.S.C. 552a(j)(2), the OIG constituties an agency component that performs as one of its principal functions activities pertaining to the enforcement of criminal laws. *See* Section 4 of the Inspector General Act of 1978, as amended, 5 U.S.C. app. at 1185–86 (1988).

Information covered under the (j)(2) exemption includes, but is not limited to, information compiled for the purpose of identifying criminal offenders and alleged offenders and consisting of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; information compiled for the purpose of a criminal investigation, including reports of informats and investigators, that is associated with an identifiable individual; or reports of enforcement of the criminal laws from arrest or indictment through release from supervision.

With reference to 5 U.S.C. 552a(k)(2), the OIG is authorized by the Inspector General Act of 1978, as amended, to conduct investigations relating to programs and operations of the FLRA. Information contained in OIG investigative files under the (k)(2) exemption relates to non-criminal law enforcement matters, such as information pertaining to the investigation of civil, administrative, or regulatory violations and similar wrongdoing.

The disclosure of information contained in this system of records, including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of OIG investigations. Knowledge of such investigations could enable suspects to take action to prevent detection of

unlawful activities, conceal or destroy evidence, or escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their families, and could jeopardize the safety and well-being of investigative and related personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified or retained would significantly impede the effectiveness of OIG investigative activities and in addition, could preclude the apprehension and successful prosecution or discipline of persons engaged in fraud or other illegal activity.

In addition to maintaining the integrity and confidentiality of criminal investigations and protecting individuals from harm, the exemptions are needed for the following reasons:

(1) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his/her request. These accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. Accounting for each disclosure would alert the subjects of an investigation to the existence of the investigation and the fact that they are subjects of the investigation. The release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation and could seriously impede or compromise the investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families and lead to the improper influencing of witnesses, the destruction of evidence or the fabrication of testimony.

(2) 5 U.S.C 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of the Act. Since these systems of records are being exempted from subsection (d) of the Act, concerning access to records, this section is inapplicable to the extent that these systems of records will be exempted from subsection (d) of the Act.

(3) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him/her, to request amendment to such records, to request a review of an agency decision not to amend such records and to contest the information contained in such records. Granting access to records in this system of records could inform the subject of an investigation of an actual or potential criminal violation, of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his/her activities, or of the identity of confidential sources, witnesses, and law enforcement personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony, and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified, security-sensitive or confidential business information and could constitute an unwarranted invasion of the personal privacy of others.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair investigations and law enforcement because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation, the investigator may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation, the investigator may obtain information concerning the violation of laws other than those which are within the scope of his/her jurisdiction. In the interest of effective law enforcement, OIG investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for other law enforcement agencies.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits and privileges under federal programs. The application of this provision could impair investigations and law enforcement by alerting the subject of an investigation, thereby enabling the subject to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence or to fabricate testimony. Moreover, in certain circumstances the subject of an investigation cannot be required to provide information to investigators and information must be collected from other sources. Furthermore, it is often necessary to collect information from sources other than the subject of the investigation to verify the accuracy of the evidence collected.

(6) 5 U.S.C. 552a(e)(3) requires an agency to inform each person whom it asks to supply information, on a form that can be retained by the person, of the authority under which the information is sought and whether disclosure is mandatory or voluntary; of the principal purposes for which the information is intended to be used; of the routine uses which may be made of the information; and of the effects on the person, if any, of not providing all or any part of the requested information. The application of this provision could provide the subject of an investigation with substantial information about the nature of that investigation that could interfere with the investigation. Moreover, providing such a notice to the subject of an investigation could seriously impede or compromise an undercover investigation by revealing its existence and could endanger the physical safety of confidential sources, witnesses, and investigators by revealing their identities.

(7) 5 U.S.C. 552a(e)(4) (G) and (H) require an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual, at his/her request, if the system of records contains a record pertaining to him/her, how to gain access to such a record and how to contest its content. Since this system of records is being exempted from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable to the extent that this isystem of records will be exempt from subsection (f) and (d) of the Act. Although the system would be exempt from these requirements, OIG has published information concerning its notification, access, and contest procedures because, under certain circumstances, OIG could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(8) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register**

notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses, and to avoid the disclosure of investigative techniques and procedures. Although the system will be exempt from this requirement, OIG has published such a notice in broad generic terms.

(9) 5 U.S.C. 552a(e)(5) requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about the individual. Since the Act defines "maintain" to include the collection of information, complying with this provision could prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment it is collected. In collecting information for criminal law enforcement purposes, it is not possible to determine in advance what information is accurate, relevant, timely, and complete. Facts are first gathered and then placed into a logical order to prove or disprove objectively the criminal behavior of an individual. Material which seems unrelated, irrelevant, or incomplete when collected can take on added meaning or significance as the investigation progresses. The restrictions of this provision could interfere with the preparation of a complete investigative report, thereby impeding effective law enforcement.

(10) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. Complying with this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(11) 5 U.S.C. 552a(f)(1) requires an agency to promulgate rules which shall establish procedures whereby an individual can be notified in response to his/her request if any system of records named by the individual contains a record pertaining to him/her. The application of this provision could impede or compromise an investigation or prosecution if the subject of an investigation were able to use such rules to learn of the existence of an investigation before it could be completed. In addition, mere notice of the fact of an investigation could inform the subject and others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since this system would be exempt from subsection (d) of the Act, concerning access to records, the requirements of subsection (f) (2) through (5) of the Act, concerning agency rules for obtaining access to such records, are inapplicable to the extent that this system of records will be exempted from subsection (d) of the Act. Although this system would be exempt from the requirements of subsection (f) of the Act, OIG has promulgated rules which establish agency procedures because, under certain circumstances, it could be appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(12) 5 U.S.C. 552a(g) provides for civil remedies if an agency fails to comply with the requirements concerning access to records under subsections (d) (1) and (3) of the Act; maintenance of records under subsection (e)(5) of the Act; and any other provision of the Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual. Since this system of records would be exempt from subsections (c) (3) and (4), (d), (e) (1), (2), (3) and (4) (G) through (I), (e) (5) and (8), and (f) of the Act, the provisions of subsection (g) of the Act would be inapplicable to the extent that this system of records will be exempted from those subsections of the Act.

For these reasons, it is proposed to exempt the proposed system of records containing OIG investigative files under exemptions (j)(2) and (k)(2) of the Privacy Act by amending the FLRA's Privacy Act regulations, 5 CFR part 2412. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FLRA certifies that the proposed rule amendment will not, if adopted, have a significant impact on a substantial number of small entities, because the Privacy Act applies only to "individuals," and individuals are not "small entities" within the meaning of the Regulatory Flexibility Act. The FLRA further certifies that the rule amendment has been reviewed under Executive Order No. 12291 and has been determined not be a "major rule," since it will not have an annual effect on the economy of $100 million or more.

List of Subjects in 5 CFR Part 2412

Privacy Act.

For the reasons set out in the preamble, the FLRA proposes to amend title 5, chapter XIV, subchapter B, part 2412 of the Code of Federal Regulations, as follows:

PART 2412—PRIVACY

1. The authority for Part 2412 continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Section 2412.16 would be added as follows:

§ 2412.16 Exemptions.

(a) *OIG Files Compiled for the Purpose of a Criminal Investigation and for Related Purposes.* Pursuant to 5 U.S.C. 552a(j)(2), the FLRA hereby exempts the system of records entitled, "FLRA/OIG–1, Office of the Inspector General Investigative Files," insofar as it consists of information compiled for the purposes of a criminal investigation or for other purposes within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a, except for subsections (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), (11) and (i).

(b) *OIG Files Compiled for Other Law Enforcement Purposes.* Pursuant to 5 U.S.C. 552a (k)(2), the FLRA hereby exempts the system of records entitled, "FLRA/OIG–1, Office of Inspector General Investigative Files," insofar as it consists of information compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f).

Dated September 26, 1990.

Solly Thomas,

Executive Director.

[FR Doc. 90–23235 Filed 10–1–90; 8:45 am]

BILLING CODE 6727–01–M

FEDERAL RESERVE BOARD

12 CFR Parts 211 and 265

[Docket No. R–0703]

Regulation K—International Banking Operations; Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; extension of comment period.

SUMMARY: Because of requests for additional time, the Board of Governors of the Federal Reserve System has extended the period for receipt of public comments on its proposal to revise its regulation dealing with the activities of

Edge corporations and foreign banks and other international banking matters (Docket No. R-0703) until October 14, 1990.

DATES: Comments must be received by October 14, 1990.

ADDRESSES: All comments, which should refer to Docket No. R-0703, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to Room B-2233, 20th & Constitution Avenue, NW., Washington, DC between the hours of 8:45 and 5:15 p.m. weekdays. Comments may be inspected in Room B-1122 between 8:45 and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Ricki Rhodarmer Tigert, Associate General Counsel (202/452-3428), Kathleen M. O'Day, Managing Senior Counsel (202/452-3786), Kimberly A. Lynch, Attorney (202/453-3584), Legal Division; or Michael G. Martinson, Assistant Director (202/452-3640), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: On August 1, 1990 (55 FR 32424, August 9, 1990), the Board requested comment on a proposal to revise the provisions of Regulation K governing the permissible foreign activities of U.S. banking organizations; investments by U.S. banking organizations under the general consent procedures; qualified business entities to which Edge corporations may provide full banking services in the United States; and case-by-case exemptions from the standard for qualifying foreign banking organizations. Comment was requested on the proposal by September 30, 1990. The Board has received a number of inquiries requesting additional time within which to submit comments. In light of the issues involved in the proposal and in order to afford interested parties an opportunity to present their views on the matter, the comment period has been extended to October 14, 1990.

By order of the Board of Governors, acting through its Secretary under delegated authority, September 25, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-23115 Filed 10-1-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Docket No. 26339; Summary Notice No. PR-90-24]

Summary of Rulemaking Petition Received From American Airlines, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for rulemaking.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of a petition by American Airlines, Inc., to allow aircraft certificated for 110 seats or less and that meet Stage 3 noise requirements to use commuter slots at Chicago's O'Hare International Airport. The purpose of this notice is to improve the public's awareness of this aspect FAA's regulatory activities. Neither the publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before December 3, 1990.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket [AGC-10], Docket No. 25717, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267-3491.

SUPPLEMENTARY INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rule Docket [AGC-10], Room 915, FAA Headquarters Building [FOB-10A], Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

Part 93, subpart K of the Federal Aviation Regulations (14 CFR part 93, subpart K) limits the number of aircraft operations at O'Hare International Airport and limits the type of aircraft that may use commuter slots. Under § 93.123(c), commuter operations are those conducted by a propeller-driven aircraft having a maximum certificated seating capacity of less than 75 passenger seats or a turbojet aircraft having a maximum certificated seating capacity of less than 56 passenger seats.

Petitioner requests that the requirements of part 93, subpart K of the Federal Aviation Regulations be amended to permit aircraft certificated for 110 seats or less and that meet Stage 3 noise requirements to use commuter slots at O'Hare International Airport. Petitioner states that the use of Stage 3 aircraft with up to 110 passenger seats would upgrade and increase service to small and medium-sized communities and would enhance competition in the Chicago area, as well as throughout the United States.

Petitioner requests that either public notice and comment on this petition be waived and that the FAA proceed immediately to the publication of a notice of proposed rulemaking, or, alternatively, that the comment period on the petition be limited to 15 days. The FAA believes, however, that all interested and affected parties should be given the opportunity to comment on this petition. In consideration of the complexity and potential impacts of the rulemaking action requested, the FAA further believes that a full comment period of 60 days is necessary in order to obtain reasoned comments from the users of the airspace system. Therefore, the FAA is publishing the petition for public comment in accordance with the procedures contained in agency regulations, 14 CFR 11.27(b).

Issued in Washington, DC on September 26, 1990.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 90-23211 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-92-AD]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 B2 and B4 series airplanes, which currently requires measurement to determine

wear of certain flap ball screwjack no-back assemblies, and replacement, if necessary. This action would revise the initial compliance threshold and the intervals for the repetitive measurements required by the existing AD. This proposal would also require modification of the screwjack no-back assemblies which would terminate the need for the repetitive measurements. This condition, if not corrected, could result in reduced controllability of the airplane.

DATES: Comments must be received no later than November 20, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-92-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-92-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On September 17, 1987, the FAA issued AD 87-21-03, Amendment 39-5736 (52 FR 36752, October 1, 1987), to require repetitive measurements and replacement, if necessary, of certain flap ball screwjack no-back assemblies. That action was prompted by reports of excessive wear of the carbon friction discs in the screwjack no-back assemblies. This condition, if not corrected, could result in the screwjack becoming reversible and could lead to an asymmetrical flap condition in the event of a flap transmission shaft failure, which could cause reduced controllability of the airplane.

Recently, the FAA has been advised that the existing AD requires the initial measurement of backlash later in the screwjack life cycle, and repeat measurements (when the backlash is less than .33 mm) at more frequent intervals, than specified in the parallel foreign airworthiness directive and the manufacturer's recommendation. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, has issued revised Airworthiness Directive 84-066-061(B)R2, dated April 18, 1990, related to this subject.

After further review of the currently available data, the FAA has determined that the initial measurement requirement of the existing AD must be conducted at an earlier threshold in order to determine excessive wear of the carbon friction discs in the screwjack no-back assemblies in a more timely manner. Further, the repetitive measurement interval may be extended for backlash measurements of less than .33 mm, without compromising safety.

Airbus Industrie Service Bulletin A300-27-172, dated April 10, 1984, describes the procedures for conducting a jackhead axial backlash measurement on certain flap ball screwjacks, and replacement of the screwjack, if necessary. The French DGAC has classified this service bulletin as mandatory.

Airbus Industrie Service Bulletin A300-27-173, dated May 2, 1984, describes the installation of Modification AI 5240, which consists of installing a new carbon friction disc, a modified drive shaft, and a collar to the no-back mechanism.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would supersede AD 87-21-03 with a new airworthiness directive that would require repetitive measurements and replacement, if necessary, of certain flap ball screwjack no-back assemblies. This proposal would also require eventual modification of the flap ball screwjack no-back assemblies, which would terminate the need for the repetitive inspections. The proposed actions would be required to be accomplished in accordance with the Airbus service bulletins described above.

The degree of assurance necessary as to the adequacy of inspection/measurement needed to maintain the safety of the transport airplane fleet, coupled with a better understanding of the human factors associated with numerous repetitive inspections/measurements, has caused the FAA to place less emphasis on repetitive inspections/measurements and more emphasis on design improvements and material replacement. Thus, in lieu of its previous position of continual inspection/measurement, the FAA has decided to require, whenever practicable, airplane modifications necessary to remove the source of the problem addressed. The proposed modification requirements of this action are in consonance with that policy.

It is estimated that 66 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8.5 manhours per airplane to accomplish the measurements, and approximately 25.5 manhours to accomplish the modifications, and that the average labor cost would be $40 per manhour. The estimated cost for the required parts is $3,048. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $290,928.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposed to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39–5736 (52 FR 36752, October 1, 1987), AD 87–21–03, with the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 B2 and B4 series airplanes, certificated in any category, equipped with the flap ball screwjack no-back mechanisms, as listed in Airbus Industrie Service Bulletin A300–27–172, dated April 10, 1984, which have not been modified in accordance with Modification AI 5240, as described in Airbus Industrie Service Bulletin A300–27–173, dated May 2, 1984. Compliance is required as indicated, unless previously accomplished.

To prevent excessive wear of the carbon friction disc of the no-back assemblies, which could lead to an asymmetric flap condition in the event of flap transmission shaft failure, accomplish the following:

A. For airplanes on which flap jamming with one or more affected flap screwjacks has occurred, perform a jackhead axial backlash measurement on the affected flap ball screwjacks in accordance with Airbus Industrie Service Bulletin A300–27–172, dated April 10, 1984, at the earlier of the following:

1. Prior to 13,000 landings; or

2. Within 1,000 landings after November 3, 1987 (the effective date of Amendment 39–5736, AD 87–21–03).

B. For airplanes on which flap jamming with any of the affected flap screwjacks has not occurred, perform a jackhead axial backlash measurement on the affected flap ball screwjacks in accordance with Airbus Industrie Service Bulletin A300–27–172, dated April 10, 1984, at the earlier of the following:

1. Prior to 13,000 landings; or

2. Whichever is the later of the following:

a. Within 1,000 landings after the effective date of this AD; or

b. Within the next "N" of landings after the effective date of this AD, as determined by the following formula: N=3,600—0.2× (number of accumulated landings).

C. If backlash is found, repeat the measurement required by paragraph A. or B. of this AD, at the following intervals:

1. If the backlash is less than or equal to 0.33 mm, prior to the accumulation of 3,600 landings after the last measurement.

2. If the backlash is more than 0.33 mm but less than or equal to 0.40 mm, prior to the accumulation of 2,000 landings after the last measurement.

3. If the backlash is more than 0.44 mm, but less than or equal to 0.56 mm, prior to the accumulation of 1,000 landings after the last measurement.

D. Replace the flap ball screwjack within the next 250 landings when a measurement required by paragraph A. or B. of this AD indicates that the backlash is greater than 0.56 mm.

E. Within 18 months after the effective date of this AD, modify the flap ball screwjack assemblies by installing a new carbon friction disc, a modified drive shaft, and a collar to the no-back mechanism, in accordance with Airbus Industrie Service Bulletin A300–27–173, dated May 2, 1984. Installation of this modification constitutes terminating action for the repetitive measurements required by paragraph C. of this AD.

Note.—This Airbus Service Bulletin references Lucas Aerospace Service Bulletin No. 1058–27–1100 for additional modification instructions.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note.—The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant Principal Inspection (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on September 17, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–23223 Filed 10–1–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–174–AD]

Airworthiness Directives; Airbus Industrie Model A310–200 and A310–300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to all Airbus Industrie Model A310–200 and A310–300 series airplanes, which would require repetitive visual inspections and electrical continuity tests to detect broken or missing vespel bushes in the flap universal joint assemblies, and replacement of universal joint bushes, if necessary. This proposal is prompted by reports of abnormal angular backlash found in some flap drive shaft-universal joint assemblies, due to loose, broken, or missing vespel bushes installed in the universal joint forkends. This condition, if not corrected, could result in flap failure and subsequent partial loss to lift in one wing with associated degradation of controllability of the airplane.

DATES: Comments must be received no later than November 20, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–174–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue., SW Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 227–2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–174–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on all Airbus Industrie Model A310–200 and A310–300 series airplanes. There have been reports of abnormal angular backlash found in some flap drive shaft-universal joint assemblies due to loose, broken, or missing vespel bushes installed in he universal joint forkends. This condition, if not corrected, could result in flap failure and subsequent partial loss of lift in one wing with associated degradation of controllability of the airplane.

Airbus Industrie has issued Service Bulletin A310–27–2054, Revision 1, dated March 16, 1990, which describes procedures for repetitive visual inspections and electrical continuity tests to detect broken or mission vespel bushes in the flap system universal joint assemblies, and replacement of universal joint bushes, if necessary. The French DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 90–092–109(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive visual inspections and electrical continuity tests to detect broken or missing vespel bushes in the flap system universal joint assemblies, and replacement of the universal joint bushes, if necessary, in accordance with the service bulletin previously described.

It is estimated that 22 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,400.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to all Model A310–200 and A310–300 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent flap failure due to broken or missing vespel bushes in the flap system universal joint assemblies, accomplish the following:

A. Prior to the accumulation of 8,000 landings, or within 350 hours time-in-service after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 3,500 landings, perform a visual inspection and electrical continuity tests of the flap system universal joint assemblies, in accordance with Airbus Industrie Service Bulletin A310–27–2054, Revision 1, dated March 16, 1990.

Note.—The Airbus service bulletin references Lucas/Liebherr Service Bulletin No. 551A–27–613, dated March 1989, for additional instructions.

B. If any universal joint bushes are missing or broken, replace the bushes prior to further flight, in accordance with Airbus Industrie Service Bulletin A310–27–2054, Revision 1, dated March 16, 1990. After replacement, repeat the inspections required by paragraph A. of this AD at intervals not to exceed 3,500 landings.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note.—The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane

Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on September 17, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-23221 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-168-AD]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to British Aerospace Model BAC 1-11 200 and 400 series airplanes, which would require a one-time measurement of the voltage and frequency outputs from Static Inverters No. 1 and No. 2, and recalibration, if necessary. This proposal is prompted by a report of inadvertent operation of the stick shaker and stick pusher shortly after takeoff due to a faulty static inverter. This condition, if not corrected, could result in erroneous stick shake and stick push occurrences, which could adversely affect the controllability of the airplane.

DATES: Comments must be received no later than November 19, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-168-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-168-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on all British Aerospace Model BAC 1-11 200 and 400 series airplanes. There has been a report of inadvertent operation of the stick shaker and stick pusher shortly after takeoff. The cause has been attributed to a fault within the static inverter, which resulted in both stick shake and stick push operating in advance of the normal stall vane operating angle positions on one system. This condition, if not corrected, could result in erroneous stick shake and stick push occurrences, which could adversely affect the controllability of the airplane.

British Aerospace has issued Alert Service Bulletin 27-A-PM6005, Issue 1, dated March 28, 1990, which describes procedures for a one-time measurement of the voltage and frequency outputs from Static Inverters No. 1 and No. 2, and recalibration, if necessary. The United Kingdom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require a one-time measurement of the voltage and frequency outputs from Static Inverters No. 1 and No. 2, and recalibration, if necessary, in accordance with the service bulletin previously described.

It is estimated that 70 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,200.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to all Model BAC 1-11 200 and 400 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To ensure stall warning protection, accomplish the following:

A. Within 600 hours time-in-service, or within 120 days after the effective date of this AD, whichever occurs first, measure the voltage and frequency outputs of Static Inverters No. 1 and No. 2, in accordance with the Accomplishment Instructions in British Aerospace Alert Service Bulletin 27-A-PM6005, Issue 1, dated March 28, 1990. If the measured voltage and/or frequency do not conform with the tolerances as detailed in the Maintenance Manual, Paragraph E, "Stall Protection—Simulated Flight Condition Check," prior to further flight, remove the inverter from the airplane and recalibrate it in accordance with the service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manger, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on September 18, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-23220 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-178-AD]

Airworthiness Directives; Fokker Model F-28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Fokker Model F-28 Mark 0100 series airplanes, which would require replacement of main landing gear (MLG) wire harness assembly brackets; and installation of the MLG, torque link dampers, and subassemblies at the apex of the MLG torque links. This proposal is prompted by a recent report of an incident in which the MLG failed, after airplane touchdown, due to vibration. This condition, if not corrected, could result in failure of the MLG.

DATES: Comments must be received no later than November 20, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-178-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-178-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Fokker Model F-28 Mark 0100 series airplanes. There has been a recent report of an incident of main landing gear (MLG) failure, after airplane touchdown, due to vibration of the left-hand MLG. The most probable cause of the MLG failure was high amplitude oscillation in a lateral torsional mode as a result of the lack of positive damping. This condition, if not corrected, could result in failure of the MLG.

Fokker has issued Service Bulletin F100-32-034, dated March 9, 1990, which describes procedures for: (1) The replacement of the main landing gear (MLG) wire harness assembly brackets; and (2) the installation of torque link dampers and torque link assemblies on the MLG. This service bulletin references Dowty Rotol Service Bulletin F100-32-34, dated March 14, 1990, for additional instructions. The RLD has classified the Fokker service bulletin as mandatory, and has issued Airworthiness Directive BLA No. 90-022 addressing this subject.

This airplane model is manufactured in the Netherlands and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require the replacement of the MLG wire harness assembly brackets; and installation of torque link dampers and torque link subassemblies on the MLG, in accordance with the service bulletin previously described.

It is estimated that 15 airplanes of U.S. registry would be affected by this AD, that it would take approximately 35 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The estimated cost for required parts is $175. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $23,625.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Applies to certain Model F–28 Mark 0100 series airplanes; Serial Numbers 11244 through 11266, 11268 through 11283, 11286, 11289, 11291 through 11293, 11295, 11297, 11300, 11303, and 11306; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent main landing gear (MLG) vibration and subsequent failure of the MLG, accomplish the following:

A. For airplanes Serial Numbers 11244 through 11263, 11268 through 11283, 11286, 11289, 11291, 11293, 11295, and 11297: Within 180 days after the effective date of this AD, replace the MLG wire harness assembly brackets, in accordance with Fokker Service Bulletin F100–32–034, dated March 9, 1990.

B. For airplanes Serial Numbers 11244 through 11266, 11268 through 11283, 11286, 11289, 11291 through 11293, 11295, 11297, 11300, 11303, and 11306: Within 180 days after the effective date of this AD, install torque link (TL) dampers and TL subassemblies on the MLG in accordance with Dowty Rotol Service Bulletin F100–32–34, dated March 14, 1990.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on September 17, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–23222 Filed 10–1–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–ANE–12]

Airworthiness Directives; General Electric Company (GE) CF6–6, CF6–45, CF6–50, and CF6–80A Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA). DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to GE CF6–6, CF6–45, CF6–50, and CF6–80A series engines, which would establish an inspection program for stage 1 fan disks. This proposal is prompted by the discovery of five stage 1 fan disks with cracks in the dovetail post area. This condition, if not corrected, could result in disk post fracture, multiple fan blade release, engine power loss, and uncontained engine failure.

DATES: Comments must be received no later than October 31, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 90–ANE–12, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments must be marked: Docket No. 90–ANE–12.

Comments may be inspected at the above address in room 311, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service information may be obtained from the General Electric Company, Technical Publications Department, 1 Neumann Way, Cincinnati, Ohio 45215. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Marc J. Bouthillier, Engine Certification Branch, ANE–142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7065.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be

submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-ANE-12." The post card will be date/time stamped and returned to the commenter.

Discussion

The FAA has determined that three CF6-50 and two CF6-80A stage 1 fan disks have been found to contain cracks in the dovetail post area. The cracks are located at the radially inboard edge of the pressure face. The cause of the cracking is under investigation, however, preliminary findings indicate a peak stress condition at the blade/disk dovetail point of contact. The high stress condition may be due substantially to a higher than intended frictional stress component of the fan blade/disk pressure surface areas. There is also the potential for disk material fatigue property degradation due to a plasma spray operation in the noted area. The proposed AD would require repetitive ultrasonic and fluorescent penetrant inspections for cracks in the fan disk post area of CF6-6/-45/-50/-80A series engines.

There are approximately 2,891 CF6-6/-45/-50/-80A series engines of the affected design in the worldwide fleet. It is estimated that 834 engines of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per engine per inspection to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $250,000 dollars annually.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

General Electric Company: Applies to General Electric Company (GE) models CF6-6/-45/-50/-80A series turbofan engines installed on, but not limited to, McDonnell-Douglas DC-10, Boeing 747, Boeing 767, Airbus A310 and Airbus A300 type aircraft.

Compliance is required as indicated, unless previously accomplished.

To prevent stage 1 fan disk post failure, which could result in a multiple fan blade release and fracture, multiple fan blade release, engine power loss, and uncontained engine failure accomplish the following:

(a) For CF6-50/45 series engines, ultrasonic inspect and fluorescent penetrant inspect (FPI) the stage 1 fan disk dovetail post for cracks in accordance with GE Service Bulletin (SB) 72-999, dated August 29, 1990, at the next fan disk exposure after the effective date of this AD. Thereafter, reinspect per SB 72-999 at each fan disk exposure, not to exceed 7,500 cycles since last inspection (CSLI).

(b) For CF6-6 series engines, ultrasonic inspect and FPI the stage 1 fan disk dovetail post for cracks in accordance with SB 72-965, dated August 29, 1990, at the next fan disk exposure after the effective date of this AD. Thereafter, reinspect per SB 72-965 at each fan disk exposure, not to exceed 7,500 CSLI.

(c) For CF6-80A series engines, ultrasonic inspect and FPI the stage 1 fan disk dovetail post for cracks in accordance with SB 72-575, dated August 29, 1990, at the next fan disk exposure after the effective date of this AD. Thereafter, reinspect per SB 72-575 at each fan disk exposure, not to exceed 7,500 CSLI.

(d) Parts found cracked during inspection in accordance with paragraphs (a), (b) or (c) of this AD, must be removed from service prior to further flight.

(e) For the purpose of this AD, fan disk exposure is defined as any engine maintenance action where the fan disk is exposed to the piece part level.

(f) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(g) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the General Electric Company, Technical Publications Department, 1 Neumann Way, Cincinnati, Ohio 45215. These documents may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on September 13, 1990.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-23230 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-20-AD]

Airworthiness Directives; SOCATA Models TB 20 and TB 21 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental Notice of Proposed Rulemaking (NPRM); Reopening of Comment Period.

SUMMARY: This notice revises an earlier proposed Airworthiness Directive (AD), applicable to certain SOCATA Models TB 20 and TB 21 airplanes, which would have required initial and repetitive visual inspections for cracks of fuselage frame No. 0 adjacent to the engine mount and landing gear mount. That proposal was prompted by three reports of cracks in this fuselage frame. The proposed actions will preclude failure of the fuselage frame and resulting loss of structural integrity. This action revises the proposed rule by expanding the applicability of the AD to include the latest information from the manufacturer.

DATES: Comments must be received on or before November 16, 1990.

ADDRESSES: Aerospatiale Service Bulletin No. 42/1, dated July 1990, applicable to this AD, may be obtained from Aerospatiale, Aeroport Tarbes-Ossum-Lourdes, B.P. 930 65009, Tarbes Cedex, France; Telephone 62.51.7300. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–20–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Everett Pittman, Aerospace Engineer, Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium; Telephone (322) 513.38.30; or Richard F. Yotter, Aerospace Engineer, Project Support Section-Foreign, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426–6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–20–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD, applicable to certain SOCATA Models TB 20 and TB 21 airplanes, which would have required initial and repetitive inspections of fuselage frame No. 0 for cracks, was published in the **Federal Register** on June 4, 1990 (55 FR 22804).

That action was prompted by three reports of incidents of cracked fuselage frame No. 0 on SOCATA Models TB 20 and TB 21 airplanes. Cracking of the fuselage frame could result in an unsafe landing gear attachment or a loose engine mount. As a result, SOCATA has issued Aerospatiale Service Bulletin No. 42, dated October 1989, which requires initial and repetitive visual inspections of the fuselage frame No. 0 for cracks and repair as necessary.

The Direction Generale de L'Aviation Civile (DGAC), which has the responsibility and authority to maintain the continuing airworthiness of these airplanes in France, classified Aerospatiale Service Bulletin No. 42 and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under French registration, this action has the same effect that an AD has on airplanes certificated for operated in the United States.

The FAA relies upon the certification of the DGAC combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States.

The FAA examined the available information related to the issuance of Aerospatiale Service Bulletin No. 42, dated October 1989, and the mandatory classification of this Aerospatiale Service Bulletin No. 42 of the DGAC. Based on the foregoing, the FAA determined that the condition addressed by Aerospatiale Service Bulletin No. 42, dated October 1989, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, an AD was proposed which would require an initial and repetitive visual inspections of fuselage frame No. 0 on SOCATA Models TB 20 and TB 21 airplanes and the repair or cracked frames prior to further flight, in accordance with the above Service Bulletin.

Since the issuance of the proposal, the FAA has been notified that the manufacturer and the DGAC have revised the applicable service information to include additional airplanes. Since this expanded applicability goes beyond the scope of the earlier proposed AD, the proposal has been revised accordingly and the comment period has been reopened to provide additional time for public comment.

The FAA has determined there are approximately 148 airplanes affected by the proposed AD. The cost of inspecting airplanes affected by the proposed AD is estimated to be $80 per airplane. The total cost is estimated to be $11,840. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action: (1) Is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Socata: Applies to Models TB 20 and TB 21 (Serial Numbers (S/N) 1 through 1051, except S/N 1040 and S/N 1042) airplanes, certificated in any category.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

To prevent structural failure of the fuselage frame in the area of the landing gear attachment, accomplish the following:

(a) On airplanes with more than 1,500 hours time-in-service (TIS) on the effective date of this AD, within the next 100 hours TIS after the effective date of this AD and, thereafter, at intervals not to exceed 500 hours TIS, visually inspect the fuselage frame No. 0 for cracks in the area of the engine mount and landing gear mount per the instruction in Aerospatiale Service Bulletin (SB) No. 42/1, dated July 1990. Prior to further flight repair any cracked frames found per the instructions in the above SB.

(b) On airplanes with less than 1,500 hours TIS on the effective date of this AD, within the next 100 hours TIS or prior to accumulating 1,600 hours TIS whichever occurs later, and, thereafter, at intervals not to exceed 500 hours TIS, visually inspect the fuselage frame No. 0 for cracks in the area of the engine mount and landing gear mount per the instructions in Aerospatiale SB No. 42/1. Prior to further flight repair any cracked frames found per the instructions in the above SB.

(c) The repetitive inspections specified in paragraphs (a) and (b) of this AD are no longer required when the airplane has been modified in accordance with Socata Kit 9152.

(d) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An alternate method of compliance or adjustment of the initial or repetitive compliance times, which provides an equivalent level of safety, may be approved by the Manager, Aircraft Certification Office, Europe, Africa, Middle East Office, FAA, c/o American Embassy, B–1000, Brussels, Belgium.

Note. The request should be forwarded through an FAA Maintenance Inspector, who may add comments had been send it to the Manager, Brussels ACO.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Aerospatiale Aeroport Tarbes-Ossum-Lourdes, B.P. 930 65009 Tarbes, France; Telephone 62.51.7300; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on September 11, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–23224 Filed 10–1–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 90–AEA–11]

Proposed Establishment of Transition Area; Dahlgren, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Department of the Navy has requested that the Federal Aviation Administration (FAA) establish a 700 foot Transition Area to accommodate planned instrument approach procedures to the Naval Surface Warfare Center (NSWC) Dahlgren, Dahlgren, VA. The intended effect of this proposed action is to segregate aircraft operating under instrument flight rules conditions from those operating under visual flight rules in controlled airspace. Additionally, the status of the airport would be changed from VFR to IFR.

DATES: Comments must be received on or before October 30, 1990.

ADDRESSES: Send comments on the rule in triplicate to:

Edward R. Trudeau, Manager, System Management Branch, AEA–530, Docket No. 90–AEA–11, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA–530, Federal Aviation Administration, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA–530, Federal Aviation Administration, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917–0857.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90–AEA–11". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, Federal Aviation Administration, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this

NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a 700 foot Transition Area at Dahlgren, VA, due to the proposed establishment of instrument approach procedures to NSWC Dahlgren, Dahlgren, VA. Additionally, this area would be charted enabling pilots to circumnavigate this area during instrument meteorological conditions. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Transition Areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Insert the following:

Dahlgren, VA [New]

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of NSWC Dahlgren (lat. 38°19'58"N., long. 77°02'14"W.), excluding that airspace which overlaps Restricted Areas R–6611A and R–6612. This Transition Area is effective from 0600 to 2300 local, daily.

Issued in Jamaica, New York, on September 13, 1990.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 90–23226 Filed 10–1–90; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3849–4]

Approval and Promulgation of State Implementation Plans; Colorado; PM–10 New Source Review and Rule for Emission Control Trading

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to approve revisions to the Colorado State Implementation Plan (SIP) submitted on November 17, 1988, by the Governor of Colorado. The revisions proposed for approval include: (1) Amendments to Colorado Regulation No. 3 and the Common Provisions Regulation to provide for the review of new sources to protect the PM–10 national ambient air quality standards (NAAQS) and for consistency with EPA requirements; (2) amendments to Colorado Regulation No. 3 to provide for certification and trading of emissions reduction credits; (3) amendments to Colorado Regulation No. 3 to increase permit processing and annual fees. In addition to these revisions, the Governor also submitted revisions to Regulation Numbers 1, 11 and 13, which are addressed in other Notices.

EPA is proposing to approve these amendments because they are consistent with EPA policy and regulations, and in order to maintain consistency between the State and federally approved plans. However, as discussed below, EPA has previously identified deficiencies in various sections of Regulation No. 3 and approval of this submittal does not relieve the State from correcting those deficiencies.

DATES: Comments must be received on or before November 1, 1990.

ADDRESSES: Written comments should be addressed to:

Douglas M. Skie, Chief, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202–2405.

Copies of the state submittal are available for public inspection between 8 a.m. and 4 p.m. Monday through Friday at the following office:

Environmental Protection Agency, Region VIII, Air Programs Branch, One Denver Place, suite 500, 999 18th Street, Denver, Colorado 80202–2405.

FOR FURTHER INFORMATION CONTACT: Dale M. Wells, Air Programs Branch, Environmental Protection Agency, One Denver Place, suite 500, 999 18th Street, Denver, Colorado 80202–2405, (303) 293–1773, FTS 564–1773.

SUPPLEMENTARY INFORMATION: The 1977 amendments to the Clean Air Act (CAA) require EPA to review periodically and, if appropriate, revise the criteria on which each NAAQS is based along with the NAAQS themselves. In response to these requirements, EPA published a notice to promulgate revised NAAQS for particulate matter under ten microns in size (known as PM–10) on July 1, 1987 (52 FR 24634). As a result, States must revise their State Implementation Plans (SIPs) to show attainment and maintenance of the new NAAQS. Since the SIP must protect both the PM–10 standard and the total suspended particulate (TSP) prevention of significant deterioration (PSD) increments, it must trigger preconstruction review for a major new or modified source which would emit significant amounts of either TSP or PM–10.

The State administers a New Source Review (NSR) program under Part D of the Act for major stationary sources and modifications, which was originally approved by EPA on April 30, 1981 (46 FR 24180). The State also administers a PSD program under Part C of the Act which was originally approved by EPA on September 2, 1986 (51 FR 31125). Both the April 30, 1981, Notice (46 FR 24180), concerning NSR, and the September 2, 1986, Notice (51 FR 31125), concerning PSD, contained limited disapprovals regarding sources excluded from requirements due to certain exemptions in the State rules, including the exemption of fugitive dust and certain fuels. EPA promulgated federal regulations for these source categories.

The November 17, 1988, submittal contains revisions to Regulation No. 3 and the Common Provisions Regulation that incorporate protection of the PM–10 NAAQS under both the NSR and PSD

programs and make the regulations more consistent with EPA requirements. However, the approval of the November 17, 1988 submittal will not remove the earlier disapprovals and federal promulgations.

EPA has also identified additional deficiencies in the Colorado PSD and NSR programs for which the State is on a schedule to correct. EPA issued a SIP call to the State on May 26, 1988, which identified the NSR and PSD deficiencies. The State submitted a work-plan to address the SIP call, including the NSR and PSD deficiencies by September 30, 1989. These deficiencies (which were discussed in a letter to the State on August 17, 1988, as part of the public comment on the regulations being acted on here) include inconsistencies with EPA-required definitions, notification procedures, and the exemption from offset requirements of sources locating in "clean" areas within nonattainment areas. Today's proposed approval does not address these deficiencies, which remain outstanding.

EPA published an Emissions Trading Policy Statement on December 4, 1986 (51 FR 43814). The policy described emission trading and set out general principles EPA uses to evaluate bubbles and other emissions trades, as well as approvable state generic rules under the CAA and applicable federal regulations. This submittal repeats the requirements set out in the EPA Policy for emission trading, and requires that all bubbles be approved by EPA as individual SIP revisions. The present regulation, which the submittal would replace, allowed offset credit for shutdowns occurring after July 1, 1979. The November 17, 1988, submittal does not allow offset credit for prior shutdowns except for replacement units where the shutdown occurred not more than one year prior to the permit application and those which have already been certified under the old regulation. These provisions meet the requirements of 40 CFR 51.165(a)(3)(ii)(C) as amended on June 28, 1989 (54 FR 27274).

This submittal also includes amendments to Colorado Regulation No. 3, section VI., to increase permit processing and annual fees. Annual fees are increased from the present fee of $60 per emission source to a fee of $157 per emission source while the permit processing fee is increased by approximately $2 per hour. The fees are to recover program costs, and are encouraged by the CAA.

Proposed Action

EPA proposes to approve the revisions to the Colorado State Implementation Plan (SIP) submitted on November 17, 1988, by the Governor of Colorado. The revisions include amendments to the NSR and PSD programs necessary to protect the PM–10 NAAQS and provide for consistency with EPA requirements, amendments to Colorado Regulation No. 3 to provide for certification and trading of emission reduction credits, and amendments to Colorado Regulation No. 3 to increase permit processing and annual fees. EPA is proposing to approve these amendments because they are consistent with EPA policy and regulations, and in order to maintain consistency between the State and federally approved plans. However, as discussed above, EPA has previously identified deficiencies in various sections of Regulation No. 3, and approval of this submittal does not relieve the State of its obligation to correct those deficiencies.

Interested parties are invited to comment on all aspects of these proposed actions.

Under 5 U.S.C. 605(b), I certify that this SIP Revision will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter.

Authority: 42 U.S.C. 7401–7642.

Dated: June 30, 1989.

James J. Scherer,

Regional Administrator.

[FR Doc. 90–23287 Filed 10–1–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[Region II Docket No. 100; FRL–3848–1]

Approval and Promulgation of Implementation Plans; New Jersey; Revisions to the 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency, (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes approval of a revision to the New Jersey State Implementation Plan (SIP) submitted by the New Jersey Department of Environmental Protection on March 6, 1987. The State's proposed SIP revision consists of regulations to control the emissions of carbon monoxide and volatile organic compounds through modifications to the New Jersey motor vehicle emissions inspection and maintenance program. These regulations reflect commitments made in the New Jersey SIP, which was approved by EPA on November 9, 1983 (48 FR 51472).

DATES: EPA must receive comments on or before November 1, 1990.

ADDRESSES: All comments should be addressed to:

Constantine Sidamon-Eristoff, Regional Administrator, Environmental Protection Agency, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278.

Copies of the proposed revision are available for public inspection during normal business hours at:

Environmental Protection Agency, Air Programs Branch, Jacob K. Javits Building, 26 Federal Plaza, Room 1005, New York, New York 10278.

New Jersey Department of Environmental Protection, Division of Environmental Quality, 401 East State Street—CN–027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Background

A. New Jersey State Implementation Plan

On November 9, 1983, the Environmental Protection Agency (EPA) announced final approval of a revision to the New Jersey State Implementation Plan (SIP) (48 FR 51472). As part of that revision, the State committed to study and, as appropriate, to implement certain improvements to its motor vehicle emissions inspection and maintenance (I/M) program. On March 6, 1987, the State submitted to EPA a draft of a revision to its SIP that provided the results of this further study and made commitments to implement certain improvements.

Today's **Federal Register** proposal provides the results of EPA's review of the draft New Jersey SIP revision. Additional discussion of the State's submittal, EPA's review criteria, and the results of EPA's review are contained in a Technical Support Document that is available for public inspection at the locations identified in the **"ADDRESSES"** section of today's notice.

As part of its plan to demonstrate attainment of the National Ambient Air Quality Standards in a 1983 revision to its SIP, the State proposed to evaluate and implement, as appropriate, the following amendments to the New Jersey I/M program contained in the New Jersey Administrative Code, Chapter 7, Subchapter 15.

- Adoption of more stringent emissions standards,
- Elimination of the 24–35 month inspection exemption for new cars.
- Implementation of an I/M program for heavy-duty gasoline vehicles, and
- Establishment of an anti-tampering/malfunction diagnosis program for light-duty vehicles.

As discussed in the next section, items 1–4, these measures have been implemented. In addition, the State has adopted an amendment with regard to I/M waivers. This additional amendment is described in item 5 in the next section.

Amendments to Subchapter 15

1. *More stringent emissions standards for post-1980 model year vehicles.* This amendment was proposed by New Jersey on November 5, 1984, adopted on December 28, 1984 with an effective date of January 21, 1985 and became operative on July 1, 1985. The adopted idle standards are: carbon monoxide, 1.2% hydrocarbons, measured as hexane, 220 parts per million.

2. *Elimination of the inspection exemptions for new cars.* This amendment was proposed by New Jersey October 1, 1984, adopted on December 17, 1984 and became operative July 1, 1985.

3. *Inspection and Maintenance of Heavy Duty Gasoline Fueled Vehicles.* This amendment applies to gasoline fueled motor vehicles that have a gross vehicle weight exceeding 6,000 pounds. The adopted standards are:

Model Year	Idle Co (%)	Idle HC (ppm as Hexane)
Pre-1986	8.5	1,400
1968–1970	8.5	1,200
1971–1974	6.0	700
1975–1978	4.0	500
1979 & later	3.0	300

This amendment was proposed by New Jersey on November 5, 1984, adopted on December 28, 1984, and became operative on July 1, 1985.

4. *Examination of emissions control systems for tampering.* This amendment applies to all post-1974 model year gasoline-fueled motor vehicles under 8,501 pounds. It requires the examination of the catalytic converter and the fuel filler neck inlet restrictor for vehicles possessing them as original manufacturer equipment.

The examinations established by this amendment were to be phased-in according to the following schedule.

Date	Model year	Registered weight
Dec. 2, 1985	1985 and later	Under 6,001 pounds.
May 1, 1986	1982 and later	Under 6,001 pounds.
July 1, 1986	1982 and later	Under 8,501 pounds.
Jan. 1, 1987	1979 and later	Under 8,501 pounds.
May 1, 1987	1975 and later	Under 8,501 pounds.

However, on April 24, 1987, the State suspended the inspection of inlet restrictors because of concerns expressed by the inspectors about exposure to gasoline during the inspections. A final draft of an occupational health and safety study of the inspections which was prepared by an outside consultant, was submitted to NJDEP in October 1989; the report will be finalized later in 1990.

Should the report indicate that no increased health risks are incurred by performing these inspections, the State will re-establish the inclusion of the fuel inlet restrictor inspection as part of the normal inspection process. The schedule for re-establishing these inspections will be included in the final notice of this SIP revision.

5. *Inspection and Maintenance Waivers.* In its request to revise the SIP, the State proposed to exempt from inspections two classes of vehicles (the State is able to grant such waivers under the existing authority of N.J.A.C. 7:25–15.8.):

- Vehicles that fail initial inspections and have been identified by EPA as having design features that could cause them to be incorrectly identified as failing the New Jersey test ("pattern failures") and,
- Vehicles that cannot be tested because a preceding vehicle caused a "hydrocarbon hangup" in the emissions test equipment.

Since its submittal to EPA as a proposed revision to the SIP, these procedures for inspecting motor vehicles in New Jersey were revised to eliminate the need for the hydrocarbon hangup exemption. Consequently, EPA is not addressing this exemption as a part of today's action.

EPA's Proposed Action

In today's action, EPA proposes to approve for inclusion in the New Jersey SIP the following elements of the State's submittal.

—Those portions of revision to N.J.A.C. 7:27–15, "Control and Prohibition of Air Pollution from Gasoline-Fueled Motor Vehicles," and those portions of rule N.J.A.C. 7:27B–4, "Air Test Method 4, Testing Procedures for Motor Vehicles," that relate to:
—More stringent emission standards for post-1980 model year light-duty, gasoline-fueled motor vehicles.
—Emissions standards for heavy-duty, gasoline-fueled motor vehicles.
—The withdrawal of test procedures for conducting exhaust emission tests from N.J.A.C. 7:27–15 and their inclusion in the new rule, N.J.A.C. 7:27B–4.
—Revisions to N.J.A.C. 13:20–28 that reduce the valid term of inspections performed by new car dealers on newly-registered vehicles.

Today EPA is also proposing to approve two additional elements of the State's submittal. For reasons discussed later in this notice, EPA will need to adjust its assessment of the emissions reductions attributable to the I/M program to reflect the inclusion of these elements.

—Those portions of N.J.A.C. 7:27–15 and N.J.A.C. 7:27B–4 that relate to the establishment of an anti-tampering/malfunction diagnosis program for light-duty vehicles.
—Exemptions from emissions inspections that are granted under the provisions of N.J.A.C. 7:27–15.8 to vehicles characterized as pattern failures for which their are no known corrections.

EPA's Review Criteria

Section 172(b) of the Act, as further interpreted in EPA's January 22, 1981 **Federal Register** notice (46 FR 7182), lists the following requirements for the provisions of nonattainment SIPs that relate to I/M programs:

- Adoption by the state after reasonable notice and public hearing.
- Identification of and commitment to the financial and manpower resources necessary to carry out the SIP provisions.
- Evidence of public, local government, and state legislative involvement and consultation and an analysis of the alternative effects of the SIP provisions, with a summary of the public comment on such analysis.
- Written evidence that the state and general purpose local governments:

—Have adopted by statute, regulation, ordinance, or other legally enforceable document, the necessary requirements and schedules and timetables for compliance, and,

—Are committed to implement and enforce the appropriate elements of the SIP.

Inspection and Maintenance Program

The State's submittal notes that the non-methane hydrocarbon emission reductions attributable to the modifications to the I/M program are 5,774 tons/year or 14.2 metric tons/day less than had been anticipated at the time of the 1982 SIP revision. The State now estimates that a reduction in 1987 emissions of non-methane hydrocarbons of 8,373 tons/year or 20.8 metric tons/day can be achieved through implementation of the I/M program modifications in effect prior to January 1, 1986. The estimated reduction attributed to each individual program element is shown in Table 1. The State's original projection of reduction in 1987 non-methane hydrocarbon emissions as contained in the 1982 New Jersey SIP was 14,157 tons/year or 35.0 metric tons/day. This reduction is attributed to individual program elements as shown in Table 2.

The State's submittal notes several reasons for the lower levels of emission reductions in the more recent projections:

• The emission reductions that were projected to result from the anti-tampering program were estimated by making assumptions about the program's operational features. The program that was actually implemented is not a comprehensive as was originally envisioned, therefore, it provides less reduction in emissions.

• The benefits attributable to the program were calculated for the current proposed revision using local data rather than the national average data that was used when the 1982 New Jersey SIP revisions were prepared.

TABLE 1.—PROJECTED REDUCTIONS OF HC EMISSIONS AS OF MAY 1, 1987 ATTRIBUTABLE TO MEASURES IN THIS PROPOSED SIP REVISION

Measure	Emissions reductions
(A) More stringent emissions standards for post-1980 model year light-duty gasoline fueled motor vehicles (tons/year)	640
(B) I/M procedures and standards for heavy-duty, gasoline fueled vehicles (tons/year)	6,027
(C) Anti-tampering examination of: Catalytic converter and fuel filler (tons/year)	1,066
(D) Elimination of the new car dealer exemption for emissions tests for vehicles 24 to 35 months old (tons/year)	640
Total (tons/year)	8,373
Total (metric tons/day)	20.8

Reference: "Revision to the State Implementation Plan for Attainment and Maintenance of the National Ambient Air Quality Standards for Ozone and Carbon Monoxide," Appendix III, Table 1, State of New Jersey, Department of Environmental Protection, Division of Environmental Quality, March 1987

TABLE 2.—CALENDAR YEAR 1987 HC EMISSIONS REDUCTIONS PROJECTED IN THE 1982 SIP THAT WERE ATTRIBUTED TO THE MEASURES THAT ARE THE SUBJECT OF THIS PROPOSED SIP REVISION

Measure	Emissions reductions
(A) More stringent emissions standards for post-1980 model year light-duty gasoline fueled motor vehicles (tons/year)	1,265
(B) I/M procedures and standards for heavy-duty, gasoline fueled vehicles (tons/year)	5,062
(C) Anti-tampering examination of: Catalytic converter and fuel filler (tons/year)	6,267
(D) Elimination of the new car dealer exemption for emissions tests for vehicles 24 to 35 months old (tons/year)	1,563
Total (tons/year)	14,157
Total (metric tons/day)	35

Reference: "Revision to the State Implementation Plan for Attainment and Maintenance of the National Ambient Air Quality Standards for Ozone and Carbon Monoxide," Appendix III, Table 2, State of New Jersey, Department of Environmental Protection, Division of Environmental Quality, March 1987.

• In 1984, EPA introduced a version of its computer program to calculate mobile source emission factors that was an update to the version that was used for the 1982 New Jersey SIP revisions. This newer model incorporated updated estimates of in-use emissions for emission control system tampering rates and fuel volatility.

EPA's Review

The reader is referred to the Technical Support Document to today's notice for a complete discussion of EPA's review of the proposed revision to the New Jersey SIP. A summary of this review follows. In this review, EPA evaluated the adequacy of the program in achieving the claimed emission reductions and the accuracy of the procedures used to determine those reductions.

A. Program review. EPA disagrees with the State's interpretation of EPA policy as it applies to three elements of the New Jersey I/M program. These areas are:

—Plumbtesmo testing
—I/M waivers for hydrocarbon hangup
—I/M waivers for pattern failures

This finding did not affect EPA's overall approval of the operational changes that New Jersey has made to its program. However, in the case of hydrocarbon hangup and pattern failures, the State's interpretation of EPA policies will result in decreased emission reduction credits for the program.

1. *Plumbtesmo testing.* This test for the presence of lead deposits in a vehicle's exhaust pipe resulting from the use of leaded gasoline was proposed for adoption in the 1982 version to the revision to the New Jersey SIP. However, in an August 18, 1986 notice in the *New Jersey Register*, the State announced its decision not to adopt the Plumbtesmo test procedure. This decision was based on studies conducted by the State that are summarized in a report entitled, "An Evaluation of the Use of Lead Sensitive Test Paper for Detecting Vehicle Misfueling in a Centralized Inspection/Maintenance Program." This report drew the following conclusions about the use of Plumbtesmo paper in New Jersey.

• The Plumbtesmo test is inaccurate at operating conditions typical of the centralized lanes.

• The rate of vehicle misfueling in New Jersey is well below the national rate.

• The incidence of leaded gasoline being sold as unleaded gas in New Jersey is very low.

Consequently, the State saw little benefit in performing tests with Plumbtesmo paper.

EPA's Field Operations and Support Division (FOSD) reviewed the report of the Plumbtesmo study. A memorandum, dated October 7, 1986 from Richard Kozlowski, Director of FOSD, to Conrad Simon, Director of the Air and Waste Management Division of EPA Region II raised the following points about the New Jersey study:

• EPA's experience with over 15,000 uses of Plumbtesmo paper confirms its effectiveness at high tailpipe temperatures.

• New Jersey's survey of misfueled vehicles cannot be compared to EPA's because of the differences in the vehicle populations that were sampled.

• EPA agrees with the conclusion of the New Jersey study that the potential for inadvertent misfueling appears to be low.

2. *I/M waivers for hydrocarbon hangup.* The emissions analyzers operated by the State in the centralized inspection lanes measure "hydrocarbon hangup" within the sample system. To avoid false failures caused by a preceding high reading, the analyzer "locks out" and prevents an inspection if the hangup exceeds 20 ppm. To maintain vehicle throughput, the operating practices of the New Jersey Division of Motor Vehicles (NJDMV) exempted from emissions testing any vehicle that is presented for inspection while the analyzer is locked out.

In its request to revise the SIP, the State proposed to include this exemption as part of its program for vehicle I/M. However, in a September 14, 1988 letter reporting on the State's progress in addressing deficiencies that had been identified by EPA in its audit of the New Jersey I/M program, the New Jersey Department of Environmental

Protection (NJDEP) indicated that NJDMV no longer exempted vehicles because of hydrocarbon hangup. Vehicles presented for inspection while an analyzer is locked out are now tested with a reinspection analyzer at the end of a lane.

3. *I/M waivers for pattern failures.* EPA has identified groups of vehicles that, although they do not violate federal emission standards, may fail state I/M short tests because of idiosyncracies in the vehicles' design and operation under the conditions of the short test. EPA terms these groups of vehicles "pattern failures." Citing this information, New Jersey's submittal proposes to exempt an estimated 40,000 vehicles from emission inspections because the State believes these vehicles fall into pattern failure categories for which EPA confirmed no correction.

EPA believes that every vehicle should receive an initial emissions test. A vehicle could fail the test for reasons which have nothing to do with a pattern failure, e.g., a vehicle identified with a pattern failure associated with carbon monoxide emissions could fail for excessive hydrocarbon emissions. Also, not all vehicles in a group will fail.

Nonetheless, the State can, if it chooses, exempt these vehicles from emissions inspections. EPA will adjust its estimate of the emissions reductions attributable to the program to reflect this exemption.

B. *Review of claimed emissions reductions.* EPA has reviewed the emission reductions attributable to the modifications to the State's program discussed in this notice. The results of this review are contained in the Technical Support Document to this notice. This review indicates that the State generally followed correct procedures in determining the emission reductions attributable to its actions, although several minor errors were discovered. EPA has corrected these errors and recalculated the reductions. EPA calculated a reduction in emissions of non-methane hydrocarbons in 1987 of 9,156 tons per year compared to the State's estimate of 8,373 tons per year.

Conclusion

EPA is proposing approval of the State's modifications to its I/M program for inclusion in the SIP. EPA is soliciting comments on these modifications and on EPA's determination of the emissions reductions attributable to them.

The Administrator's decision to approve or disapprove this submittal will be based upon the comments received and on whether the SIP revision as a whole meets the requirements of section 110 and part D of the Clean Air Act and 40 CFR part 51.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Carbon monoxide, Hydrocarbons.

Authority: 42 U.S.C. 7401–7642.

Dated: February 23, 1990.

Constantine Sidamon-Eristoff,

Regional Administrator, Region II, Environmental Protection Agency.

This document was received by the Office of the Federal Register September 26, 1990.

[FR Doc. 90–23181 Filed 10–1–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 141

[WH–FRL–3848–8]

Variance and Exemptions for Primary Drinking Water Regulations; Unreasonable Risk to Health Guidance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of proposed guidance for determining unreasonable risk to health.

SUMMARY: This notice announces the availability of a guidance document for determining unreasonable risks to health. The purpose of this guidance is to assist States with primacy in the issuance of variances or exemptions from a Maximum Contaminant Level. In this guidance, EPA is providing several ways that an unreasonable risk to health might be determined. Actual values are stated for various proposed or regulated drinking water contaminants with an upper bound that is recommended. EPA invites written comments on this proposed guidance.

DATES: Written comments must be submitted by December 3, 1990.

ADDRESSES: Copies of the Guidance for Determining Unreasonable Risks to Health may be obtained from the EPA Safe Drinking Water Hotline. The toll-free number is (800) 426–4791; local and Alaska call (202) 382–5533, Monday through Friday, 8:30 a.m. to 4:30 p.m. EST. Copies may also be obtained by sending a written request to: Chief, Health Effects Assessment Section II, Health Effects Branch, Office of Drinking Water (WH–550D), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Written comments on the proposed guidance should be sent to the URTH Comment Clerk, Health Effects Branch, Office of Drinking Water (WH–550D), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jennifer Orme, Chief, Health Effects Assessment Section II, Office of Drinking Water (WH–550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–7586, or one of the EPA Regional Office contacts listed below. General information may also be obtained from the EPA *Drinking Water Hotline.* The toll-free number is (800) 426–4791, local: (202) 382–5533.

EPA Regional Offices

I. JFK Federal Bldg., Room 2203, Boston, MA 02203, Phone: (617) 565–3602, Jerome Healey

II. 26 Federal Plaza, Room 824, New York, NY 10278, Phone: (212) 264–1800, Walter Andrews

III. 841 Chestnut Street, Philadelphia, PA 19107, Phone: (215) 597–8227, Jon Capacasa

IV. 345 Courtland Street, Atlanta, GA 30365, Phone: (404) 347–2913, Allen Antley

V. 230 S. Dearborn Street, Chicago, IL 60604, Phone: (312) 353–2152, Ed Watters

VI. 1445 Ross Avenue, Dallas, TX 75202, Phone: (214) 255–7155, Tom Love

VII. 726 Minnesota Ave., Kansas City, KS 66101, Phone: (913) 234–2815, Ralph Langemeier

VIII. One Denver Place, 999 18th Street, Suite 300, Denver, CO 80202–2413, Phone: (303) 293–1408, Patrick Crotty

IX. 215 Fremont Street, San Francisco, CA 94105, Phone: (415) 974–0912, Steve Pardieck

X. 1200 Sixth Avenue, Seattle, WA 98101, Phone: (206) 442–4092, Jan Hastings.

Dated: September 25, 1990.

Michael B. Cook,

Director, Office of Drinking Water.

[FR Doc. 90–23265 Filed 10–1–90; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 180, 185, and 186

[OPP-300215A; FRL-3801-8]

Ethylene Bisdithiocarbamates; Additional Comment Period for Reduction and Revocation of Tolerances and Food/Feed Additive Regulations for Mancozeb, Maneb, Metiram, and Zineb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Addition to comment period.

SUMMARY: On May 16, 1990, EPA issued proposed rules to reduce and/or revoke tolerances and food/feed additive regulations for mancozeb, maneb, metiram, and zineb. In response to several international requests, EPA is reopening the comment period to allow an additional 90-day period for public comment for all commodities cited in the May 16 document.

DATES: Written comments, identified by the document control number, OPP-300215A, must be received on or before December 31, 1990.

ADDRESSES: By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. Telephone number: (703)-557-2805.

Information submitted in any comment concerning this document may be claimed confidential by marking any or all parts of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of a comment or parts of a comment which do not contain CBI must be submitted for inclusion in the public record. Information not marked CBI may be publicly disclosed by EPA without prior notice to the submitter. The EBDCs public docket, which contains all non-CBI written comments, will be available for public inspection and copying in Rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Kathleen Martin, Review Manager, Special Review Branch, Special Review and Reregistration Division (H7508C), Office of Pesticide Programs (Crystal Station 1), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2805 Jefferson Davis Hwy., Third Floor, Arlington, VA 22202, telephone (703)-308-8035.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 16, 1990 (55 FR 20416), EPA issued a proposed rule to (1) reduce and/or revoke tolerances for residues of the fungicides mancozeb, maneb, and metiram in or on 56 raw agricultural commodities covered by 45 pesticide registrations; (2) revoke mancozeb food/feed additive regulations for bran, flour, and milled feed fractions of barley, oats, and rye in processed foods and animal feed; and (3) revoke tolerances for residues of the fungicide zineb in or on all raw agricultural commodities. The document proposed effective dates of tolerance action by crop, with the caveat that actual dates would depend upon the timing of EPA's Final Determination on the EBDC's and the period different commodities would take to clear channels of trade. The May 16, 1990 Federal Register proposal provided for a 90-day public comment period, to close on August 14, 1990.

In the Federal Register of August 22, 1990 (55 FR 34288), EPA issued a document to correct several technical errors in the May 16, 1990 proposal. The public comment period for commodities affected by the corrections was extended to August 28, 1990.

Several foreign governments or groups have requested that EPA allow additional time to comment on the May 16, 1990 proposal. These requests are noted in the public docket and are summarized below.

The embassies of Columbia, Honduras, and Mexico wish additional time to provide their views on the impacts which they believe EBDC tolerance reductions and/or revocations would have on their countries' agriculture, economy, and trade interests, and they have stated that the August 14, 1990 deadline made foreign comment impracticable. The government of the Federal Republic of Germany has suggested that they believe a trade barrier could ensue if the United States were to reduce and/or revoke EBDC's tolerances more strictly than the European Community, and it has requested additional time in order to provide information on this point. Additionally, the Delegation of the Commission of European Communities (EC) has requested additional time to complete a scientific assessment of the issues and to coordinate between the Commission and the 12 EC countries. Finally, a Canadian fruit growers' association has suggested that tolerance reductions and/or revocations could pose negative impacts on the Canada-U.S. apple trade and has requested additional time to prepare comment detailing its views on possible impacts of the proposed rules.

EPA understands that some foreign interests may have had some difficulty meeting the original deadline to comment on the proposed rules to reduce and/or revoke EBDC tolerances. EPA is thus reopening the public comment period for an additional 90 days. The period will close on December 31, 1990.

Dated: September 24, 1990.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 90-23242 Filed 10-1-90; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Parts 260, 261, 262, 264, 265, 270, and 271

[FRL-3848-4]

Hazardous Waste Management System; Land Disposal Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Grant a BDAT Treatment Variance for Craftsman Plating and Tinning Corporation and Northwestern Plating Works in Chicago, Illinois, and CyanoKEM, Inc in Detroit, Michigan.

SUMMARY: The United States Environmental Protection Agency (USEPA or Agency) is today proposing to grant a site-specific variance from Land Disposal Restriction (LDR) standards for F006 wastes generated by Craftsman Plating and Tinning Corporation and Northwestern Plating Works in Chicago, Illinois. Additionally the Agency is proposing to grant a site-specific variance from the LDR standards for F011 and F012 wastes for CyanoKEM in Detroit, Michigan. If this proposal is finalized, all three facilities may land dispose of their wastes provided they comply with the alternative treatment standard and also comply with all other treatment standards for the wastes specified in 40 CFR 268.43. For Craftsman Plating and Northwestern Plating, the alternative total cyanide treatment standard for F006 nonwastewaters is 3100 mg/kg and 2000 mg/kg, respectively. For CyanoKEM, Inc., the alternative amenable and total cyanide standards for F011 and F012 nonwastewaters are 30 mg/kg and 590 mg/kg, respectively.

All three companies submitted a petition to EPA under 40 CFR 268.44, which allows facilities to petition EPA for a variance from the application LDR treatment standards. A facility submitting such a petition believes that their waste is more difficult to treat than the wastes that EPA considered in developing the treatment standards. After a comprehensive review of the petition submitted by Craftsman, Northwestern, and CyanoKEM, EPA believes that, with regard to cyanides, their wastes are more difficult to treat than the wastes EPA considered in establishing amenable and total cyanide standards for F006, F011, and F012 wastes.

DATES: EPA is requesting comments on today's proposed decision. Comments will be accepted until October 10, 1990. Comments postmarked after the close of the comment period will be stamped "late".

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS-350), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Richard Kinch, Chief, Waste Treatment Branch (OS-322). U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC. Identify your comments at the top with the regulatory docket number: F-90-TLVP-FFFFF.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, except for federal holidays. The public must make an appointment to review docket materials by calling (202) 475-9327. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, please contact Monica Chatmon-McEaddy, Office of Solid Waste (OS-322), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-7243.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under Section 3004(m) of the Hazardous and Solid Waste Amendments of 1984 (HSWA), EPA is required to set "levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized." EPA has interpreted this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was sustained by the D.C. Circuit in *HWTC* vs. *EPA*, 886 F.2d 355 (D.C. Circuit 1989). The Agency has recognized that there may be wastes that cannot be treated to levels specified in the rules, due to the fact that the wastes are in a form that is substantially more difficult to treat than those the Agency evaluated in establishing the treatment standard. (51 FR 40576, November 7, 1986.) For such wastes, EPA has established a treatability variance (Section 268.44), which if granted becomes the treatment standard for this waste.

B. Facility Operation and Process

The Craftsman Plating and Tinning Corporation is an electroplating firm located in Chicago, Illinois. The facility performs plating of various ferrous parts, approximately 50 percent of the electroplating is performed using cyanide based solutions. The treatment system used at this facility consists of alkaline chlorination for destruction of amenable cyanides, and chemical precipitation and filtration for treatment of various toxic metals.

Northwestern Plating Works is an electroplating firm located in Chicago, Illinois. The facility performs plating of various ferrous parts, approximately 80 percent of the electroplating is performed using cyanide based solutions. The treatment system used at this facility consists of alkaline chlorination for destruction of amenable cyanides, addition of ferrous sulfate to aid in the removal of the complex iron cyanides before the clarification step, and chemical precipitation and filtration for treatment of various toxic metals. The filtered solids are classified as F006 and are the subject of the petition submitted by Northwestern. This is the same technology used by EPA as the basis for the BDAT treatment standard for cyanides in F006 wastes. The filtered solids are classified as F006 and are the subject of the petitions submitted by Craftsman and Northwestern.

CyanoKEM, Inc. is a hazardous waste treatment facility located in Detroit, Michigan. The facility specializes in the treatment of high concentration cyanide wastes including cyanide based heat treating wastes. They receive approximately 10,000 gallons per year of heat treating wastes. The treatment system used at this facility consists of alkaline chlorination, chemical precipitation and filtration. Additionally, the facility has a redissolving system for solubilizing cyanides found in nonwastewaters. The heat treating wastes that CyanoKEM receives are classified as F011 and F012; in addition, their treatment of F011 wastes generates a residual that falls under the definition of F012 wastes.

C. Summary of Petitions

As noted above, Craftsman's and Northwestern's treatment system for wastewater generates a residual material that falls under EPA's definition of F006 and which is subject to the land disposal restriction standards for F006 nonwastewaters. The specific standard of concern for both facilities is the total cyanide standard of 590 mg/kg as measured by SW-846 methods 9010 or 9012 using a 10 gram sample size and a distillation time of one hour and fifteen minutes. Craftsman's and Northwestern's positions are that their F006 waste is more difficult to treat than the waste EPA considered in developing the treatment standard for total cyanide in F006 wastes. Specifically, they point to the fact that their waste contains substantial amounts of ferro-ferricyanides (complex iron cyanides) and that these types of cyanides may not be treated by the technology that EPA used as the basis for the standard (see 54 FR 26610, June 23, 1989).

As noted above, F011 and F012 wastes are treated at the CyanoKEM facility. CyanoKEM contends that they are unable to achieve the BDAT standards for total and amenable cyanides in these wastes and, as such, is requesting a treatment variance. The BDAT standards for total and amenable cyanide in F011 and F012 wastes are 110 mg/kg and 9.1 mg/kg, respectively. CyanoKEM is requesting alternative standards of 590 mg/kg for total cyanide and 30 mg/kg for amenable cyanide. CyanoKEM's position is that their F011/F012 wastes are more difficult to treat than the waste EPA considered in developing the treatment standard for total cyanide in F011/F012 nonwastewater. CyanoKEM goes on to say that the F011 and F012 wastes received by their facility are similar to the F006-F009 electroplating wastes for which EPA has established higher cyanide standards. The treatment data submitted by CyanoKEM show that they can achieve the F006-F009 standards,

but cannot currently comply with the F011 and F012 BDAT standards.

II. Basis for Determination

A. Site-Specific Conditions

Under 40 CFR 268.44, EPA allows facilities to apply for a site-specific variance in cases where a waste is generated under conditions specific to only one facility and the waste can not be treated to the specified standard for that waste even though well-operated treatment of the type used to establish the treatment standard is utilized to treat the waste.

EPA has reviewed the petition submitted by both Craftsman and Northwestern and believes that, as requested, a site-specific variance is warranted with respect to the total cyanide standard for both facilities. Specifically, EPA believes that the cause of the high concentrations of complex iron cyanides at these facilities can be attributed to site-specific electroplating formulations and operations. Such site-specific conditions would include the type of ferrous parts being plated (e.g., whether or not the parts are irregularly shaped), the type and concentration of chemical additives, the bath temperature, the pH of the cyanide bath, the condition of ferrous parts the plating thickness, the duration of the plating process, current density, and other process factors. Similarly, the Agency believes that an appropriate alternative treatment standard for total cyanide would only reflect the site-specific processing condition at Craftsman and Northwestern.

EPA has reviewed the petition submitted by CyanoKEM and believes that, as requested, a site-specific variance is warranted with respect to the amenable and total CYANIDE standards. Specifically, EPA believes that CyanoKEM is the only facility that treats F011/F012 wastes generated in a manner that results in these wastes containing high concentrations of cyanide and iron, a potential complexing agent.

B. Alternative Treatment Standard for Cyanides

EPA's technical rationale for proposing approval of a BDAT treatment variance for Craftsman focuses primarily on the Agency's belief that complex iron cyanides are not easily treated using the BDAT technology of alkaline chlorination. Consistent with this position, EPA believes that by examining the concentration of amenable cyanides (i.e., cyanides not complexed with iron) in the treated wastes, both wastewater and nonwastewater, a determination can be made regarding whether a facility has properly designed and is properly operating their alkaline chlorination system, i.e. by reducing the amenable cyanides in the waste, proper destruction of the cyanides has been performed by alkaline chlorination.

Craftsman Plating is reducing amenable cyanides from 300 ppm in the effluent to less than 1 ppm in the effluent wastewater and the sludge. This substantial reduction indicates that the alkaline chlorination treatment system is being operated properly. EPA is, therefore, using the concentration of amenable cyanides in the F006 wastes as the principal determinant of whether a variance is warranted for total cyanide and, if so, the appropriate alternative treatment concentration.

EPA also sought additional means of assuring that Craftsman's treatment system is being operated properly. On November 16, 1989, the Agency conducted an engineering site visit at Craftsman Plating. The Agency observed that the treatment system was well operated due to the fact that concentration of the amenable cyanide were reduced significantly. In fact, the electroplating wastewater generated by the facility contained concentration of amenable cyanide greater than 300 ppm and was reduced to less than 1 ppm by the treatment system. In addition, treatment was conducted in afford with normal design and operating parameters. The F006 wastes generated from the treatment system is 30% solid with a concentration of total cyanides ranging from 600–1000 ppm.

In the case of Craftsman, there is one data point that shows both total and amenable cyanide concentrations for their F006 waste. These concentrations are 1,160 mg/kg for total and <1.0 mg/kg for amenable cyanides, respectively. Using these data and accounting variability in the amount of complex iron cyanides that will be generated, EPA has determined that an appropriate alternative total cyanide standard for the Craftsman facility located in Chicago, Illinois is 3,100 mg/kg. The calculation of the treatment standard can be found in the Proposed Background Document for this site-specific treatability variance. The alternative treatment standard is derived by using a variability factor of 2.8 times the concentration of total cyanides in the waste. In a similar manner, EPA's technical rationale for proposing approval of a BDAT treatment variance for Northwestern focuses primarily on the Agency's belief that complex iron cyanides are not easily treated using the BDAT technology of alkaline chlorination. Northwestern Plating is reducing the amenable cyanides to less than 1 ppm in the effluent wastewater and the sludge. EPA is, therefore, using their findings on the concentration of amenable cyanides in the F006 wastes as the principal determinant of whether a variance is warranted for total cyanide and, if so, the appropriate alternative treatment concentration. Therefore, by reducing the amenable cyanides in the waste proper destruction of the cyanides has been performed by alkaline chlorination.

On November 16, 1989, the Agency conducted an engineering site visit at Northwestern Plating. The Agency observed that the treatment system was well operated due to the fact that the concentration of amenable cyanide was reduced significantly. In fact, the electroplating wastewater generated by the facility contained amenable cyanides greater than 200 ppm. As mentioned before, the cyanide concentration in the effluent was reduced to less than 1 ppm. The F006 generated from the treatment system is 33% solids with a concentration of total cyanides ranging from 700–1000 ppm. Based on these observations, the Agency concluded that the facility was well operated.

Also, the treatment data submitted in the petition contained one data point that shows both total and amenable cyanide concentrations for their F006 waste. The concentration of total cyanide in the waste is 708 mg/kg. Using these data and accounting for variability in the amount of complex iron cyanides that will be generated, EPA has determined that an appropriate alternative total cyanide standard for the Northwestern facility located in Chicago, Illinois is 2000 mg/kg.

The calculation of the treatment standard can be found in the Proposed Background Document. The alternative treatment standard is derived by using a variability factor of 2.8 times the concentration of total cyanides in the waste.

Also, the Agency is requesting additional treatment data from Craftsman Plating and Northwestern Plating. Because of these data, the Agency may promulgate different alternative treatment standards as proposed.

EPA is also proposing to grant alternative treatment standards for total and amenable cyanide in the F011 and F012 wastes treated at CyanoKEM's facility in Detroit, Michigan. Specifically, EPA is proposing to grant a variance from the current standard of 110 mg/kg for total cyanide to 590 mg/kg

and a variance from 9.1 mg/kg for amenable cyanide to 30 mg/kg. EPA's review of CyanoKEM's waste characterization data for F011 and F012 wastes confirms that their waste more closely approximates the wastes treated for development of the F006–F009 cyanide standards than the F011/F012 wastes tested by EPA. The CyanoKEM F011/F012 wastes have total cyanide concentrations as high as 204,000 ppm compared to 71,759 ppm for wastes used to develop BDAT for F006–F009 and 22,700 ppm for wastes used as the basis for current F011 and F012 standards. Moreover, iron concentrations that, when combined with cyanide, inhibit cyanide treatment are much higher in the F011/F012 wastes treated by CyanoKEM than in the F011/F012 wastes treated by EPA: over 46,000 ppm of iron in the wastes at CyanoKEM compared to 140 ppm estimated for the EPA tested F011/F012 wastes. On the other hand, iron concentrations in the wastes used as the basis for F006–F009 were as high as 11,917 ppm.

The Agency conducted an engineering site visit at the CyanoKEM facility on January 23, 1990. The primary purpose of this visit was to review CyanoKEM's records on F011 and F012 in order to be sure that the wastes treated were similar to the characteristics of F006 through F009. The second purpose of the visit was to determine whether the treatment system is well operated. A copy of the engineering site visit report is in the administrative record for today's proposed rule.

At the site, the Agency reviewed some of the characterization sheets on F011 and F012. From the review, the Agency determined that the characteristics of F011 and F012 wastes (i.e., cyanide and iron concentration) treated by CyanoKEM were similar to the F006 wastes. Also, based on observations of the facility, the Agency concluded that the treatment system was well operated.

For the above reasons, the Agency believes that an alternative treatment standard for F011 and F012 wastes treated at CyanoKEM's facility is warranted. EPA believes that the available data supports a transfer of the performance of alkaline chlorination achieved for treatment of amenable and total cyanides for F006–F009 wastes to F011 and F012 wastes.

At this time, the Agency is soliciting comments on the approach of developing treatability groups for F011 and F012 wastes based on the concentration of metals (specifically iron) and cyanides. In the Second Third Final Land Disposal Restrictions Rule (51 FR 26611), the Agency promulgated cyanide and metal treatment standards for F011 and F012 wastes. The wastes treated by the Agency contained total cyanide concentration ranging up to 30,000 ppm and iron concentration ranging up to 140 ppm. The treatment standards for these wastes were based on the performance of electrolytic oxidation followed by alkaline chlorination. Also, the Agency concluded that F011 and F012 wastes contained lower concentration of iron than F006 wastes. Based on the iron concentration of the F011 and F012 wastes treated by the Agency as compared to the characterization data provided in CyanoKEM's treatability variance, these wastes are different. Treatment data shows that this difference does impact the performance of the treatment system. Therefore, the Agency is soliciting comments on establishing a treatability group for F011 and F012 based on a low iron concentration (i.e. less than 140 ppm) to achieve total and amenable cyanide treatment standards of 110 mg/kg and 9.1 mg/kg, respectively; and a high iron treatability group (i.e. greater than 140 ppm) to achieve total and amenable cyanide treatment standards of 590 mg/kg and 30 mg/kg, respectively.

C. Conditions for Total Cyanide Variance

For both Craftsman and Northwestern Plating, the total cyanide analysis must be accompanied by an analysis for amenable cyanide. Only in cases where the amenable cyanide concentration is in compliance with the current BDAT standard of 30 mg/kg will the facilities be allowed the variance. As indicated, EPA is proposing a variance for total cyanide only. Based on the information in this record, both facilities are able to comply with the amenable cyanide standard, therefore the Agency is not proposing to change the amenable cyanide standard.

For CyanoKEM, the metal treatment standards for F011 and F012 nonwastewaters and the cyanide and metal treatment standards for the wastewaters must be met in order to dispose of the waste. As indicated, EPA is proposing a variance for amenable and total cyanides only in F011 and F012 nonwastewaters treated at this facility.

Dated: September 17, 1990.

Sylvia K. Lowrance,

Director, Office of Solid Waste.

For the reasons set out in the preamble, title 40, chapter I, Part 268 of the Code of Federal Regulations is proposed to be amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. Section 268.44 is amended by adding paragraphs (m) and (n) to read as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(m) [Reserved].

(n) The following facilities are excluded from the treatment standard under § 268.43 (a), Table CCW and are subject to the following constituent concentrations.

TABLE—WASTES EXCLUDED FROM THE TREATMENT STANDARDS

Facility name and address [1]	Waste Code	See also	Regulated hazardous constituent	Wastewaters concentration (mg/l)	Non-wastewaters concentration (mg/kg)
Craftsman Plating and Tinning, Corp., Chicago, IL.	F006	Table CCWE in 268.41	Cyanides (Total)	[2] 1.2	[3] 3,100
			Cyanides (Amenable)	[2] 0.86	30
			Cadmium	1.6	NA
			Chromium	0.32	NA
			Lead	0.040	NA
			Nickel	0.44	NA

TABLE—WASTES EXCLUDED FROM THE TREATMENT STANDARDS—Continued

Facility name and address [1]	Waste Code	See also	Regulated hazardous constituent	Wastewaters concentration (mg/l)	Non-wastewaters concentration (mg/kg)
Northwestern Plating Works, Inc., Chicago, IL.	F006	Table CCWE in 268.41	Cyanides (Total)	[2] 1.2	[3] 2,000
			Cyanides (Amenable)	[2] 0.86	30
			Cadmium	1.6	NA
			Chromium	0.32	NA
			Lead	0.040	NA
			Nickel	0.44	NA
CyanoKEM, Inc., Detroit, MI	F011	Table CCW in 268.41	Cyanides (Total)	1.9	[3] 590
			Cyanides (Amenable)	0.1	30
			Chromium (Total)	0.32	NA
			Lead	0.04	NA
			Nickel	0.44	NA
CyanoKEM, Inc., Detroit, MI	F012	Table CCW in 268.41	Cyanides (Total)	1.9	[3] 590
			Cyanides (Amenable)	0.1	30
			Chromium (Total)	0.32	NA
			Lead	0.04	NA
			Nickel	0.44	NA

[1] A facility may certify compliance with these treatment standards according to provisions in 40 CFR Section 268.7
[2] Cyanide Wastewater Standards for F006 are based on analysis of composite samples.
[3] Cyanide Nonwasters are analyzed using SW-846 Method 9010 or 9012; sample size 10 grams; distillation time: one hour and fifteen.
Note: NA means Not Applicable.

[FR Doc. 90-23180 Filed 10-1-90; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

48 CFR Parts 950, 952, and 970

Acquisition Regulation; Nuclear Hazard Indemnity Clauses; Extension of Time

AGENCY: Department of Energy.

ACTION: Proposed rule; extension of time.

SUMMARY: On August 17, 1990 (55 FR 33730), the Department of Energy (DOE) published a proposed rule revising the Department of Energy Acquisition Regulation (DEAR) The proposed rule implements provisions of the Price-Anderson Amendments Act of 1988 as those amendments affect the Nuclear Hazards Indemnity clauses currently in the DEAR

The Department has received a request for extension of the comment period beyond October 1, 1990. It has been brought to our attention that this rule and the Department's proposed rule concerning accountability for profitmaking and fee bearing management and operating contractors ("Accountability NOPR"), published on August 10, 1990, at 55 FR 32874, have similar comment periods. To provide appropriate time for interested organizations to consider both rules, the DOE has determined that the comment period for the Hazards Indemnity clauses should be extended.

DATES: The comment period is extended until November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Robert M. Webb, Procurement Policy Division (PR-121), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586-8264, FTS 896-8264.

Issued in Washington, DC, on September 25, 1990.

Berton J. Roth,

Deputy Director, Office of Procurement, Assistance and Program Management.

[FR Doc. 90-23341 Filed 9-28-90; 10:14 am]
BILLING CODE 6450-01-M

Notices

Federal Register
Vol. 55, No. 191
Tuesday, October 2, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking, Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States. The meeting will be held at 4 p.m. on Wednesday, October 10, 1990, at the Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037 (Library, 5th floor).

The committee will meet to discuss two new projects: (1) A study of administrative responses to congressional demands for information, by Peter Shane, Professor of Law, University of Iowa; and (2) a study of the Medicaid rulemaking process, conducted by Eleanor Kinney, Director, Program for Law, Medicine and the Health Care Industry, Indiana University School of Law.

For further information concerning this meeting, contact Kevin Jessar, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC. (Telephone: 202–254–7020.)

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: September 27, 1990.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 90–23305 Filed 10–1–90; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: International Trade Administration.

Title: Participation Agreement.

Form Numbers: Agency—ITA–4008P and ITA 4008P(a), OMB—0625–0147.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 5800 respondents; 1,933 reporting hours.

Average Hours Per Response: 20 minutes.

Needs and Uses: The International Trade Administration (ITA) sponsors up to 200 overseas trade promotion events each fiscal year. These events include trade fairs, trade and seminar missions, and catalogue or video-catalogue shows in which U.S. companies display, demonstrate, and promote their goods and services in foreign markets. The Participation Agreement is the vehicle by which individual firms agree to participate in ITA's trade promotion program, identify the products or services they intend to sell or promote, and record their required financial contribution to the Department of Commerce. It is a contract between an individual firm and Commerce. ITA collects the information for four primary purposes: (1) To identify firms which have agreed to participate in specific overseas trade promotion events; (2) to establish the financial contribution which the individual firms will make and keep track of their payments; (3) in connection with facilitating the shipment of exhibition goods using private sector freight forwarding companies; and (d) to collect participant profile information such as export experience and company size for evaluative purposes.

Affected Public: Businesses or other for profit; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Donald Arbuckle, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Donald Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 20, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–23192 Filed 10–1–90; 8:45 am]

BILLING CODE 3510–CW–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: International Trade Administration.

Title: Petition Format for Requesting Relief under U.S. Antidumping Duty Law.

Form Numbers: Agency—ITA–357P and 19 CFR 353.12, OMB—0625–0105.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 85 respondents; 3,400 reporting hours.

Average Hours Per Response: 40 hours.

Needs and Uses: Under section 732 of the Tariff Act of 1930, as amended, the Department of Commerce is required to initiate an antidumping duty investigation when a domestic interested party alleges the elements

necessary for the imposition of an antidumping duty on an imported product. The antidumping petition is used to gather the information necessary to determine whether an antidumping duty investigation is warranted. The information requested relates to the existence of sales at less than fair value and injury to the affected U.S. Industry. This information is necessary in setting forth an allegation that foreign merchandise is being dumped in the United States and forms the basis for initiating an investigation.

Affected Public: Businesses or other for profit; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Donald Arbuckle, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Donald Arbuckle, OMB Desk Officer, Room 3208 New Executive Office Building, Washington, DC 20503.

Dated: September 25, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–23193 Filed 10–1–90; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

[A–588–045]

Steel Wire Rope From Japan; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on steel wire rope from Japan. Interested parties who object to this revocation must submit their comments in writing not later than October 31, 1990.

EFFECTIVE DATE: October 1, 1990

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1973, the Department of Treasury published an antidumping finding on steel wire rope from Japan (38 FR 28571). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4)), we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than October 31, 1990, interested parties, as defined in § 353.2(k) of the Department's regulation's (19 CFR 353.2(k)), may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by October 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by October 31, 1990, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: September 25, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90–23196 Filed 10–1–90; 8:45 am]

BILLING CODE 3510–DS–M

[C–357–803]

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Leather From Argentina

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of leather as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant rates are indicated in the "Suspension of Liquidation" section of this notice.

We are directing the U.S. Customs Service to suspend liquidation on all entries of leather from Argentina that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice and to require a cash deposit on entries of there products in the amounts equal to the estimated net bounty or grant.

EFFECTIVE DATE: October 2, 1990.

FOR FURTHER INFORMATION CONTACT: Kay Halpern or Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 377–0192 or 377–5414.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that there is reason to believe or suspect that benefits which constitute bounties or grants within the meaning of section 3030 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers producers, or exporters in Argentina of leather. We determine that the following programs confer bounties or grants:

- Resolution 321: Embargo on Cattle Hide Exports
- Circular RF–153: Pre-Export Financing
- Discounts of Foreign Currency Accounts Receivable under Circular RF–21
- Tax Deduction under Decree 173
- Import Duty Reduction under Decree 964

Case History

Since the completion of our Preliminary Determination *[Preliminary Affirmative Countervailing Duty Determination: Leather from Argentina,* 55 FR 28925 (July 16, 1990), *(Preliminary Determination)],* the following events have occurred.

On July 12 and 13, 1990, we held disclosure meetings on calculation methodology with counsel for respondents and petitioners, respectively. On July 11, 12, and 18, 1990, respondents submitted corrections to their responses regarding pre-export financing.

On July 26, 1990, petitioners requested a hearing and on July 31, 1990, respondents requested permission to participate in the hearing.

We conducted verification in Buenos Aires, Argentina, from July 23 through

August 3, 1990, of the questionnaire responses of the Government of Argentina (GOA), Camara de la Industria Curtidora Argentina (CICA), Curtiembres Fonseca, S.A. (CF), Federico Meiners Ltda., S.A. (Meiners), Compania Industrial del Cuero, S.A. (CIDEC), Ultrahide, S.A. (Ultrahide), Antonio Esposito, S.A. (Esposito), Coplinco, S.A. (Coplinco), Grunbaum, Rico y Daucourt, S.A.I.C.F. (Graubaum), Gibaut Hermanos, S.A. (Gibaut), and Manuel Neira, S.A.I.C.F. (Neira).

On August 13 1990, respondents filed corrections of the minor discrepancies discovered at verification. Case briefs were filed on September 4, 1990, by petitioners and respondents; rebuttal briefs were filed by both parties on September 7, 1990. A public hearing was held at the Department of Commerce on September 10, 1990.

Scope of Investigation

The product covered by this investigation is leather. The types of leather that are subject to this investigation includes bovine (excluding upper and lining leather not exceeding 28 square feet, buffalo leather, and upholstery leather), sheep (excluding vegetable pretanned sheep and lambskin leather), swine, reptile (excluding vegetable pretanned and not fancy reptile leather), patent leather, calf and kip patent laminated, and metalized leather. Leather is an animal skin that has been subjected to certain treatment to make it serviceable and resistant to decomposition. It is used in the footwear, clothing, furniture and other industries. The types of leather included within the scope of this investigation are currently classified under HTS item numbers 4104.10.60, 4104.10.80, 4104.21.00, 4104.22.00, 4104.29.50, 4104.29.90, 4104.31.50, 4104.31.60, 4104.31.80, 4104.39.50, 4104.39.60, 4104.39.80, 4105.12.00, 4105.19.00, 4105.20.30, 4105.20.60, 4107.10.00, 4107.29.60, 4107.90.30, 4107.90.60, 4109.00.30, 4109.00.40, and 4109.00.70. The HTS item number(s) are provided for convenience and Customs purposes. The Department's written description of the merchandise under investigation remains dispositive.

Analysis of Programs

For purposes of this investigation, the period for which we are measuring bounties or grants ("the review period") is calendar year 1989, which corresponds to the most recently completed fiscal year of the majority of the respondent companies. The other respondent companies each have different fiscal years which overlap this period. In accordance with our practice in such situations, we have chosen the most recently completed calendar year as our review period.

Based upon our analysis of the petition, the responses to our questionnaires, and verification, we determine the following:

I. Programs Determined To Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Argentina of leather under the following programs:

A. Resolution 321: Embargo on Cattle Hide Exports

1. Background

Since 1972, the GOA has implemented two different types of restrictions on the export of cattle hides: Export embargoes and export taxes. In 1972, the GOA implemented an embargo on the export of cattle hides under Decree 2861. This embargo was lifted in 1979 and was replaced by an export tax under Resolution 909. In September 1985, the GOA again instituted an embargo under Resolution 321.

The 1972 embargo was instituted to promote the development of a domestic leather tanning industry. In 1979, the U.S. Tanners' Council filed a section 301 petition regarding the Argentine embargo on cattle hides. Consequently, the GOA and the United States reached an agreement in 1979 to eliminate the embargo. While Argentina reserved the right to impose an export tax on hides, the tax was to be phased out completely over three years. Although Argentina made the scheduled export tax reduction in 1979, it implemented another measure which effectively negated part of the concession. This measure instituted a minimum export price on cattle hides which was used instead of the transaction price in determining the amount of tax to be charged on exports. Since the minimum export price was generally higher than the transaction price, the effective tax rate was at a rate higher than the reduced rate Argentina had agreed in 1979 would apply. Moreover, in 1981, Argentina failed to implement the scheduled export tax reduction called for in the agreement.

In October 1981, another section 301 petition was filed by the U.S. industry regarding Argentina's breach of the 1979 agreement. Although the United States Trade Representative (USTR) initiated a section 301 investigation, it was dropped shortly thereafter with the consent of the U.S. industry. The USTR decided that the issue was more appropriately pursued under section 125 of the Trade Act of 1974, which gave the President the authority to terminate the 1979 U.S.-Argentina Agreement. In 1982, the U.S. and Argentina exchanged diplomatic notes terminating the agreement.

The export tax on hides was increased in both 1982 and 1984. In 1985, the current embargo on cattle hides was imposed. Resolution 321, which implemented the embargo, states that "(i)t is necessary to negotiate measures to maintain the volume of supply of raw materials adequate to the needs of the domestic market of the leather tanning and manufacturing sector, facilitating a smooth flow of supplies while avoiding any undue increase in prices."

2. Analysis of Current Embargo

The embargo applies only to cattle hides, which are sold primarily, if not exclusively, to leather tanners. Thus, we determine that the embargo is limited to a specific industry and is, therefore, countervailable to the extent that it has caused hide prices to be lower than they would have been absent the embargo.

When the petition in this investigation was filed, we held petitioners to an extremely high standard of proof, requiring them to substantiate their claim that the embargo had a direct and discernible effect on hide prices in Argentina. In their petition, they provided substantial source and secondary documentation, demonstrating the comparability of Argentine, United Kingdom (U.K.), and U.S. hide quality; documenting U.S., U.K. and Argentine hide prices over 30 years; and outlining their analysis of how the embargo is linked directly with the price differential between Argentine hide prices on the one hand, and U.S. and U.K. hide prices on the other. We initiated on the embargo because petitioners provided evidence, based on two sets of reasonable benchmark prices for comparable hides, which indicated that the embargo may have suppressed the price of untanned hides in Argentina, thereby resulting in a benefit specific to Argentine leather producers.

At the time of our *Preliminary Determination*, the information on the record concerning the embargo was inconclusive. Although we had information which demonstrated that hide prices in the six largest exporting nations, including the United States, were higher than Argentine hide prices, respondents argued, and some data suggested, that other factors may have contributed to the price effects, and that the embargo may have had only a limited impact, if any, on prices. At verification, we gathered and verified

data on Argentine hide prices, hide exports, cattle slaughter, inflation, and exchange rates over a 28 year period from 1962 to 1989. We also collected from published sources U.S. hide and leather price data, and Argentine leather price data, for the same period.

The historical comparison of the U.S. and Argentine hide price data for the period 1962 to 1989 shows a clear link between the imposition of the 1972 embargo and a divergence in U.S. and Argentine hide prices. Average annual Argentine and U.S. hide prices are fairly constant and at virtual parity from 1962 through 1972. After 1972 and until the embargo was terminated in 1979, Argentine hide prices were consistently, and generally markedly, lower than U.S. hide prices. From 1981 to 1984, during a period when the embargo was not in effect, Argentine hide prices moved closer to, and at times exceeded, U.S. prices. Finally, when the hide embargo was reimposed in 1985, average annual Argentine hide prices again diverged and remained consistently below average annual U.S. prices. Thus, there is a cognizable and discernible link between the Argentine hide embargo and the average annual U.S.-Argentine hide price differentials.

Although hide prices in Argentina are certainly affected by other factors, such as variations in quality, inflation, cattle slaughter, and leather prices, we have analyzed all of these factors in an attempt to isolate cause and effect relationships between each of them and the U.S.-Argentine hide price differentials. None of these factors can be conclusively linked to the divergence in prices that occurred after the embargoes.

For example, respondents argue that the primary reason for the divergence in prices after 1972 was a deterioration in the quality of Argentine hides. According to respondents, prior to the 1970s, Argentine cattle were raised under different conditions and the hides were produced by large, sophisticated packers. It is extremely unlikely however, that these changes can account for the abrupt divergence in prices which occurred in 1972. Respondents also cite inflation as a possible cause for the divergence. In our calculations, however, we converted all Argentine hide prices from the Argentine currency to U.S. dollars, essentially negating the effects of Argentine inflation. Furthermore, all of the factors listed above, to a greater or lesser degree, were at work both before and after the embargoes were imposed.

The best measure we have of what prices would have been in the absence of the current embargo is a benchmark based on U.S. hide prices. U.S. hide prices are the best benchmark for two reasons. First, excerpts of published articles and studies submitted by petitioners indicate that U.S. and Argentine hide quality is comparable. In addition, we saw no evidence at either the Argentine or the U.S. tanneries we visited that the leather produced from Argentine hides is significantly inferior to that produced from U.S. hides. Second, the United States is the largest cattle hide producer among countries which freely trade such hides. Thus, U.S. hide prices are indicative of world hide prices.

As detailed above, a comparison of Argentine and U.S. hide prices during periods in which Argentina maintained an embargo on hides clearly demonstrates that Argentine hide prices were consistently lower than U.S. hide prices. Therefore, we determine that the Argentine cattle hide embargo is countervailable.

3. Calculation of Benefit

We calculated the benefit from the embargo as follows. First, we calculated the annual average differential between the price of Argentine steer hides (*novillos*) and U.S. butt-branded steer hide prices as a percentage of the Argentine hide price for the periods the embargo was in effect (May 1972–October 1979, and September 1985–December 1989, the end of the review period). (It should be noted that both sets of prices are for salted, non-fleshed, branded hides, and neither set includes brokerage fees.)

From this, we subtracted the average differential expressed as a percentage of the Argentine hide price for the years prior to the first embargo (January 1962, the first month for which we obtained data, through April 1972). We did so because we observed a slight U.S.-Argentine hide price differential in the period 1962–1972. Consequently, we are assuming that a portion of the price differential during the embargo periods is attributable to normal market forces independent of the embargoes. To measure the effect of these market forces we are using, as a surrogate, the price differential as a percentage of the Argentine price observed in the 1962–1972 period, when there were significant exports of cattle hides from Argentina.

Next, we multiplied the result by the value of each respondent's hide purchases during the review period to obtain an absolute benefit amount for each company. We then allocated each company's benefit over its total sales during the review period. Finally, we weight-averaged the resulting benefits by each company's proportion of respondents' exports to the United States during the review period, excluding those companies with significantly different aggregate benefits. The estimated net bounty or grant is 14.17 percent *ad valorem* for all manufacturers, producers and exporters in Argentina of leather except Ultrahide and Esposito, which have significantly different aggregate benefits. The estimated net bounties or grants for Ultrahide and Esposito are 23.34 percent *ad valorem*, and 7.74 percent *ad valorem*, respectively.

B. Circular RF–153: Pre-Export Financing

Circular RF–153 allows exporters to receive pre-export financing from Central Bank funds in the form of dollar-indexed loans. The program is administered by the Central Bank of Argentina. The amount of the loan can equal up to 65 percent of the f.o.b. export value if the merchandise to be exported is produced solely from domestically-produced inputs. If the exporter uses imported materials, the level of financing is reduced according to the imported content of the merchandise to be exported. Loans under this program are made to individual corporate borrowers by commercial banks which, in turn, are reimbursed by the Central Bank. Loans are extended to exporters of leather for a maximum period of 150 days.

The principal and interest payments under this program are indexed to the austral/dollar exchange rate. The loans are given in australes but are tied to a fixed dollar amount based on the exchange rate prevailing on the date of the loan. At the time of repayment, the fixed dollar amount is reconverted to australes based on the exchange rate prevailing on that date, and the borrower must repay the new austral amount. In addition, the borrower must make quarterly interest payments in australes, in most cases applying an eight percent annual interest rate to the fixed dollar amount. These interest payments are converted to australes at the exchange rate prevailing at the end of each quarter. Effective October 1, 1989, the eight percent interest rate was increased to ten percent.

Pre-export financing under Circular RF–153 was renamed under Circular A–598, and subsequently replaced by Central Bank Communication A–1205 on June 3, 1988. Communication A–1205 set up a mechanism for Argentine commercial banks to source export financing directly from international banks instead of through the Central Bank. At verification, we found that the Central Bank rebates three percent (of the loan principal times the number of days in the loan divided by 365) to the foreign banks providing the funds. The

rebate, which can be passed on to exporters, is meant to compensate the foreign banks for their increased exposure, or risk, in obtaining the funds.

This new, externally-sourced financing coexisted with the Central Bank-sourced financing until January 1, 1990. After that date, Central Bank lines of credit were "temporarily suspended" under Communication A–1595, and pre-export financing by commercial banks was conducted only with foreign bank funds.

We verified that the following companies received RF–153 loans on which interest was paid during the review period: CF, Meiners, CIDEC, Ultrahide, Esposito, Grunbaum, and Gibaut. Because only exporters are eligible for these loans, we determine that they are countervailable to the extent that they are provided at preferential rates.

As the benchmark for short-term (less than one-year) loans, it is our practice to use the average interest rate for an alternative source of short-term financing in the country in question. In determining this benchmark, we normally rely upon the predominant source of short-term financing. In the absence of a single, predominant source of such financing, we may use a benchmark composed of the interest rates for two or more sources of short-term financing, weighted, whenever possible, according to the value of financing from each source. (See our *Preliminary Determination* for a discussion of the benchmark used in previous Argentine cases.)

We verified that, during the review period, the predominant source of commercial, bank-related (as opposed to credit from supliers) financing in Argentina is dollar-indexed financing. Neither the Central Bank nor any other Argentine government agency maintains statistics on the interest rates charged on commercial dollar-indexed financing. However, we verified that most of the respondent companies received pre-export financing under Communication 727, later renamed Copex 1680 financing. Copex 1680 establishes the current maximum terms for pre-export financing with foreign funds. The terms are as follows: 110 days for traditional exports (grain, oilseed, and other agricultural products), and 290 days for non-traditional exports (manufactured, or "industrial," products, which include leather). With the exception of these terms, the Central Bank does not regulate this type of pre-export financing. We verified that interest rates for both traditional and non-traditional exports are freely negotiated, and that rates for non-traditional exports are generally a few percentage points higher than rates for traditional exports, due to the increased risk involved. We also verified that the new external lines opened up under Communication A–1205 are meant to augment the existing externally-sourced financing under Copex 1680. As discussed above, Communication A–1205 financing is accompanied by a rebate of three percent of the loan principal, adjusted for the term of the loan, from the Central Bank to the commercial bank. No such rebates accompany Copex 1680 financing.

Therefore, we have decided to use as a benchmark the interest rate on dollar-indexed loans for non-traditional exports offered by commercial banks in Argentina under Copex 1680. In this way, we are comparing dollar-indexed financing to dollar-indexed financing. The use of a dollar-indexed benchmark is consistent with our past practice, in that it is the predominant alternative source of short-term financing available in Argentina. Thus, we determine that it is appropriate to use a dollar-indexed benchmark when examining the degree to which Circular RF–153 loans provide a benefit to Argentine exporters.

Comparing the benchmark rate to the rates charged on RF–153 loans during the review period, we find that the RF–153 loans are preferential and, therefore, confer a bounty or grant on exports of leather.

To calculate the benefit from RF–153 loans on which interest was paid during the review period, we followed the short-term loan methodology which has been applied consistently in our past determinations and which is described in more detail in the *Subsidies Appendix* attached to the notice of Cold-Rolled Carbon Steel Flat-Rolled Products From Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order, 49 FR 18006, April 26, 1984; *see also, Alhambra Foundry* v. *United States*, 626 F. Supp. 402 (CIT, 1985). Accordingly, we compared the amount of interest actually paid during the review period to the amount that would have been paid at the benchmark rate.

Because we verified that individual RF–153 loans can cover several export shipments to different destinations, we allocated each company's interest savings over the value of its total export sales during the review period. We then weight-averaged the resulting benefits by each company's proportion of respondents' exports to the United States during the review period, excluding those companies with significantly different aggregate benefits. The estimated net bounty or grant is 0.66 percent *ad valorem* for all manufacturers, producers and exporters in Argentina of leather except Ultrahide and Esposito, which have significantly different aggregate benefits. The estimated net bounties or grants for Ultrahide and Esposito are 0.82 percent *ad valorem*, and 0.25 percent *ad valorem*, respectively.

As noted in our *Preliminary Determination*, it is the Department's policy to take into account program-wide changes which (1) occur after the review period but before our preliminary determination and (2) can be measured. (A "program-wide" change is defined as a change which is (1) not limited to an individual firm or firms and (2) effectuated by an official act.) However, because we verified that the externally-sourced pre-export financing under Communication A–1205, which replaced the Central Bank-sourced financing, is accompanied by a rebate which may affect the interest actually paid by exporters, the net effect of this change is indeterminate at this time. Accordingly, we are not adjusting the duty deposit rate for the suspension of Central Bank-sourced pre-export financing.

C. Discounts of Foreign Currency Accounts Receivable Under Circular RF–21

Administered by the Central Bank, this program provides financing for up to 80 percent of the f.o.b. value of export shipments. Financing under this program allows exporters to provide financing to their foreign purchasers. Operations are documented through bills of exchange in U.S. dollars, which are discounted in the same currency by local banks. Circular RF–21 loans can be given for a maximum term of one year, with equal repayments of principal at periods not exceeding six months. Interest is paid on June 30 and December 31 (or at the maturity of the loan). In order to obtain export financing under this program, the exporter must show documented evidence of an export transaction to be completed within 30 days.

All discounts were based on Central Bank-sourced funds until the promulgation of Communication A–1205 in June 1988. Communication A–1205, which replaced RF–21, preserved the treatment exporters received under RF–21 but allowed commercial banks to source funds directly from international banks as well as from the Central Bank. At verification we found that discounts from international banks are accompanied by rebates from the Central Bank to the bank providing the discounts (similar to the rebates accompanying the externally-sourced pre-export financing opened up under Communication 1205, discussed under Section I.B., above). We verified that these rebates reduced the interest paid

by the respondent company which received externally-sourced discounts. Unlike the Central Bank-sourced pre-export financing, Central Bank-sourced discounts were not completely disallowed after January 1, 1990.

We verified that two respondents, CIDEC and Meiners, received RF–21 discounts on which interest was paid during the review period. Because only exporters are eligible for these discounts, we determine that they are countervailable to the extent that they are provided at preferential rates.

We used as our benchmark the same rate described above in reference to RF–153 financing. Because RF–21 discounts are tied to individual shipments, we allocated each company's interest savings over the value of its exports to the United States during the review period. We then weight-averaged the resulting benefits by each company's proportion of respondents' exports to the United States during the review period, excluding those companies with significantly different aggregate benefits. The estimated net bounty or grant is 0.13 percent *ad valorem* for all manufacturers, producers and exporters in Argentina of leather except Ultrahide and Esposito, which have significantly different aggregate benefits. The estimated net bounty or grant for both Ultrahide and Esposito is zero.

D. Tax Deduction Under Decree 173/85

Decree 173 provides a deduction from taxable income equal to ten percent of export earnings. It is administered by the General Director of Taxation.

Because only exporters are eligible to claim this deduction, we determine that it is countervailable. We verified that all the respondent companies claimed this deduction on their tax returns filed during the review period.

In order to calculate the benefit under this program, we allocated each company's tax savings over the value of its total export sales during the review period. We then weight-averaged the resulting benefits by each company's proportion of respondents' exports to the United States during the review period, excluding those companies with significantly different aggregate benefits. The estimated net bounty or grant is 0.01 percent *ad valorem* for all manufacturers, producers and exporters in Argentina of leather except Ultrahide and Esposito, which have significantly different aggregate benefits. The estimated net bounties or grants for Ultrahide and Esposito are zero and 0.03 percent *ad valorem*, respectively.

We verified that companies continue to claim this benefit, even though the government suspended the deduction under Decree 553/89 of May 2, 1989. In addition, we verified that tax losses, which are partially attributable to the Decree 173 deduction, can be carried forward for five years, and that these losses are adjusted for inflation. Accordingly, we are not adjusting the duty deposit rate to reflect the suspension of this program.

E. Import Duty Reduction under Decree 964

At verification we found that CF received a reduction of duties payable on a machine imported during the review period. The reduction was granted through Resolution 1156 of May 3, 1989, which authorized CF to import the machine at the reduced rate of duty within seven days. The Resolution states that the duty reduction is only for imports of items not manufactured in Argentina.

The Resolution refers to Decree 964 of 1988, which, in turn, refers to Law 21,608 of 1977. The Law, which was passed by Congress, regulates industrial promotion policies. The Decree, executed by the President, describes the general benefits available and the eligibility criteria for these benefits. The Resolution, promulgated by the Ministry of Industry and Commerce, grants a specific, one-time benefit to CF.

Decree 964 states that it is meant to "augment industrial competitiveness and increase the level of exportation." We requested and received no evidence at either the government or at CF to indicate that the import duty reduction received by the company was not contingent upon export performance. Having received no information on Decree 964 or CF's usage of this program prior to verification, we are assuming, based on the best information available, that the benefit provided to CF under this Decree was contingent upon export performance, and is, therefore, countervailable.

For purposes of calculating the benefit, we are treating the import duty reduction as a grant. Because CF received the reduction during the review period, and the difference between the duty paid by CF and the duty the company would have paid absent the reduction is less than 0.50 percent of the value of its total exports during the review period, we allocated the full amount of this difference to the review period. We used total exports for the 0.50 percent test because the reduction was contingent upon export performance.

We allocated each company's benefit from this program (*i.e.*, the import duty savings for CF, and zero benefits for the other companies) over the value of its total export sales during the review period. We then weight-averaged the resulting benefits by each company's proportion of respondents' exports to the United States during the review period, excluding those companies with significantly different aggregate benefits. The estimated net bounty or grant is less than 0.005 percent *ad valorem* for all manufacturers, producers and exporters in Argentina of leather except Ultrahide and Esposito, which have significantly different aggregate benefits. The estimate net bounty or grant for both Ultrahide and Esposito is zero.

II. Programs Determined Not To Be Used

We determine, based on verified information, that manufacturers, producers, or exporters in Argentina of leather did not apply for, claim or receive benefits during the review period for exports of leather to the United States under the following programs:

A. *Export Payments Under Decree 176: Programa Especial de Exportaciones (PEEX)*
B. *Post-Export Financing: OPRAC 1–9*
C. *Reembolso*
D. *Financing Investments for Exports (FIDEX)*
E. *Corrientes Regional Tax Incentives*
F. *Industrial Parks*
G. *Low-Cost Loans for Projects Outside Buenos Aires*
H. *Exemption from Stamp Tax Under Decree 186/76*
I. *Government Trade Promotion Programs*
J. *Incentives for Export from Southern Ports*

For a complete description of these programs, see the *Preliminary Determination*.

Comments

Comment 1

Respondents argue that petitioners lack standing and do not represent the domestic industry. They cite *Suramerica de Aleaciones Laminadas, C.A.* v. *U.S.*, Slip. Op. 90–79 at 32 (CIT Aug. 22, 1990), in which the Court of International Trade held that the Department cannot presume industry support for a petition, especially when it receives notice of industry opposition.

Petitioners argue that they do have standing in this investigation and that the above cited case does not apply because the opponents' position in this investigation derives from their status as importers. According to petitioners, the Court in *Suramerica* pointed out that *Suramerica* case differs from another recent case, *Comeau Seafoods Ltd.* v. *U.S.*, 724 F. Supp. 1407 (CIT 1989), in which those opposing the petition were importers of the subject merchandise. Petitioners quote and excerpt from the *Suramerica* decision, which states that

the Court accepted the Department's argument in *Comeau* that the opposition's position is due to their status as importers.

DOC Position

The Department does not agree with the holding of *Suramerica*. We continue to maintain that petitioners have standing. The reasons for this decision were discussed in our *Preliminary Determination*.

Comment 2

Respondents argue that the Department's *Preliminary Determination* was incorrect in that any benefit from the cattle hide embargo is not limited to a specific industry or group of industries and that this determination is inconsistent with Department precedent in Non-Rubber Footwear from Argentina: Final Results of Administrative Review of Countervailing Duty Order (49 FR 45138, March 16, 1984) and Leather Wearing Apparel from Argentina: Final Results of Administrative Review of Countervailing Duty Order (50 FR 45139, October 30, 1985).

Petitioners argue that the Department was correct in its preliminary determination in finding that the cattle hide embargo is limited. Petitioners state that, in contrast to the cases cited by respondents, the subject of the present case is leather and not finished leather goods, such as footwear and wearing apparel. In the earlier cases, the Department did not find measures affecting hides to be limited to leather footwear or apparel producers, because leather is also used in a wide variety of other industries. With regard to the present case, petitioners assert that an embargo on hides is limited to leather tanners because tanners are the only users of hides. They further assert that the Department is not reversing its decisions in the earlier cases because it has never before addressed the issue of whether the hide embargo benefits leather tanners.

DOC Position

We agree with petitioners. The embargo applies only to cattle hides, and cattle hides are used exclusively by the tanning industry in the production of leather.

Comment 3

Petitioners assert that the Department does not need to establish how hide prices were determined because the benchmark provides the "control" and is, therefore, a measure of all the macroeconomic factors that make up the actual price. Through a series of detailed charts and calculations petitioners contend that the other factors raised by respondents throughout this investigation, such as Argentina's "cheap beef policy", hyperinflation, currency devaluation, fluctuations in slaughter, and hide quality, have not caused the price differential between U.S. and Argentine hides. While recognizing that these factors may have some impact on price fluctuations, petitioners argue that because hide prices began to diverge in 1972 (as illustrated in a historical chart attached to their brief), it is the embargo, and not these other factors, which caused the price differential.

Specifically, with respect to hide quality, petitioners point out that prior to 1972, when Argentine and U.S. hide prices were virtually identical, the hides were basically the same as they are now. Furthermore, they state that hide quality is a very subjective issue, and that each country has its own problems when it comes to the quality of the raw materials. For example, U.S. hides have larger brands than Argentine hides, and because many are fattened on feedlots, U.S. hides have both barbed wire scratches from their time spent in pastures, and stains from the feedlots. Both Argentine and U.S. hides have the same exposure to tick and bug bites. Petitioners cite several sources, including an excerpt from an independent multi-client study done by Landell Mills Commodities Studies, Inc. in August 1989, "Leather to the year 2000" (attached as appendix 3 to petitioners' case brief), which states that U.S. hides and Argentine hides are ranked equally behind those of northern Europe. Finally, petitioners contend that while each country has a variety of quality problems, the leather that is produced from both countries is comparable.

Respondents argue that the overwhelming impact of factors such as hyperinflation, massive currency devaluations, cattle slaughter, hide quality, and government policies concerning export taxes on leather, import duties, and exchange rate policies make it impossible for the Department to isolate and quantify the effect of the embargo, or use normal economic assumptions. They further argue that petitioners have taken an overly simplistic approach to the analysis of these factors and have in fact erred in several calculations. Specifically, respondents contend that the exchange rates used by petitioners in the graphs comparing U.S. and Argentine hide prices over time are incorrect because exporters are compelled to exchange their foreign currency at a mix of exchange rates and not only at the financial exchange rate used by petitioners.

Furthermore, respondents argue that the inferior quality of the hides in Argentina accounts for much of the price differential. They claim that deteriorating slaughterhouse practices in the early 1970s led to hides scarred by knife holes and being delivered untrimmed. Also, they content that Argentine hides have more frequent barbed wire and brush scratches from extended range feeding of cattle as compared with U.S. hides, and that the quality of the leather produced in Argentina is therefore inferior.

DOC Position

While the Department recognizes that the factors mentioned by respondents may cause fluctuations in prices, we find, based on a long-term analysis of hide prices since 1962, that the embargo is the primary reason for the divergence between U.S. and Argentine hide prices. We recreated graphs similar to those submitted by petitioners, which illustrate the 1972 price divergence, using all the exchange rate information available to the Department, including information independently obtained by the Department. (We note that certain exchange rate information, although requested during verification, was not provided by respondents and could not otherwise be obtained by the Department.) We found that no matter which exchange rates were used, the outcome remained the same: Prices diverged at the time of the embargoes.

With respect to hide quality, the arguments presented by both parties indicate that hide quality is a subjective issue that could not have caused the initial 1972 price divergence. After touring tanneries in both the United States and Argentina, and analyzing the information on the record, we find that, while hides in Argentina do have imperfections like those identified by respondents, similar or other problems can be found in U.S. hides. Moreover, published studies submitted by petitioners indicate that U.S. and Argentine hides are equally beset with imperfections, and are both similarly ranged as being inferior to northern European hides. In sum, we find that neither exchange rates, hide quality, nor any of the other factors cited by respondents, can be conclusively linked to the divergence in the hide prices after 1972.

Comment 4

Petitioners argue that the test of whether a subsidy exists in this case is

not whether the embargo caused prices to decrease, but whether prices would have been higher if the embargo did not exist. Petitioners further contend that a comparison of prices before and after 1985 is inappropriate because the export tax system also substantially limited the export of hides. Instead, a long-term analysis of pricing trends should be used.

Respondents contend that the embargo had no effect on hide prices and that there is no evidence on the record which shows that the embargo caused an actual reduction in the price of hides.

DOC Position

We believe that the most important indicator as to whether the embargoes confer a benefit is not whether hide prices fell following the imposition of the embargoes, but whether the embargoes caused prices in Argentina to be lower than they would have been absent the embargoes. At verification, we collected data on hide prices and exchange rates going back to 1962. We believe that a long-term analysis of these data is necessary to determine whether the embargoes caused hide prices to fall below U.S. prices and, therefore, bestow a benefit upon Argentine tanners.

Comment 5

Petitioners assert that the following methodology should be used in the Department's cattle hide embargo calculations. First, the Department should establish the price differential between Argentine hide prices and world hide prices. Next, the Department should multiply the price differential as a percentage of the Argentine hide price by the hide cost as a percentage of the total cost of manufacturing leather. Using the individual company cost of production figures, the Department should then calculate a subsidy rate for each company.

DOC Position

We describe how we calculated the estimated net bounty or grant due to the embargo in section I.A., above. We used total sales because the embargo provides benefits to all tanners, regardless of whether they produce only leather or a combination of leather and leather products. Moreover, we verified that all respondents sell only leather and leather products, with leather products representing only a very small percentage of their sales. It is the Department's standard practice to calculate the net bounty or grant as a percentage of the appropriate sales amount rather than as a percentage of the cost of manufacturing. This methodology more accurately represents the benefit attributable to the products under investigation which are entering the United States.

Comment 6

Petitioners argue that the Department should not use a dollar-indexed benchmark in its calculations of RF–153 and FR–21 financing. Instead, they maintain that the Department should use the short-term austral rate available to domestic companies to finance domestic shipments. Petitioners also contend that if the Department were to continue to use a dollar-indexed benchmark, the Department should include all risk factors in this benchmark.

Respondents argue that the Department should continue to use a dollar-indexed benchmark because none of the exporters used austral financing in 1989, and, moreover, there was very little austral financing in the Argentine economy, given the excessively high interest rates associated with such financing. Respondents also assert that the interest rates used by the Department in its *Preliminary Determination* already contain risk factors because they are freely-negotiated rates.

DOC Position

We agree with respondents. We verified that dollar-indexed financing was the predominant form of commercial financing in Argentina during the review period. Furthermore, because the Copex 1680 rates which we used as our benchmark already include risk factors, are freely negotiated, and do not involve rebates, it is not necessary to add additional risk factors. (*See*, section I.B. of this notice.)

Comment 7

Petitioners argue that, because Communication 1595 only "temporarily suspended" the RF–153 program, the Department should not consider this a program-wide change, and should not adjust the cash deposit rate.

Respondents argue that the information obtained by the Department during verification established the fact that Communication A–1595 effectively terminated pre-export financing from Central Bank sources. The word "suspended" was used due to political difficulties in Argentina associated with the use of the word "terminated". They further contend that there are no procedures in place for the revival of this program and, moreover, there are no funds available for such credit.

DOC Position

We did not adjust our cash deposit rate to reflect the suspension of Central Bank-sourced pre-export financing because the externally-sourced financing which replaced it is accompanied by interest rate rebates, which may affect the interest paid by exporters. (*See*, section I.B. of this notice).

Comment 8

Respondents argue that the methodology the Department used in calculating benefits under Circulars RF–153 and FR–21 overstates the 1989 benefit in two ways. First, the Department should not include in its calculations interest payments made in 1988 and 1990. Second, respondents assert that there is no reason to convert the benefit back into australes for the subsidy calculation, but that if the Department does convert back to australes, the australes should be converted into dollars at the actual exchange rate prevailing when the interest was paid. They assert that the rate of 2,400 australes per dollar used by the Department in its *Preliminary Determination* overstates the benefit because the official market closing rate for December 28, 1989 was 1,790 australes per dollar.

DOC Position

We agree, and have adjusted our calculations accordingly.

Comment 9

Petitioners contend that the Department should countervail the Argentine government's rebate of value-added taxes (VAT) for exporters. They further argue that, although the government is not currently returning VAT payments to exporters, the companies are accuring this benefit and list the amount due them on their financial statements as a tax receivable.

Respondents assert that the principle that indirect taxes (such as VAT) can be rebated upon export without conferring a subsidy is widely accepted among nations. They state that the Department has continually followed this rule, and that this practice was approved by the Supreme Court of the United States (*See, Zenith Radio Corporation* v. *U.S.*, 437 U.S. 443, 450–1, 1978).

DOC Position

We agree with respondents that VAT taxes may be rebated upon export without conferring a subsidy. Section (g) of the Illustrative List of Export Subsidies in the *Subsidies Code* states that the following is a subsidy: "the

exemption or remission in respect of the production and distribution of exported products, of indirect taxes *in excess* of those levied in respect of the production and distribution of like products when sold for domestic consumption" (emphasis added). We found no evidence during this investigation that VAT taxes were being excessively rebated by the Argentine government.

Comment 10

Petitioners argue that the Department should include any benefits under Decree 173 in its calculation of the cash deposit rate because companies can continue to receive benefits under this program due to the fact that the deduction can be carried forward for five years.

Respondents argue that, while it might be possible that a small portion of a company's tax loss carry-forward could be attributed to the Decree 173 deduction, any benefits received would be insignificant. Furthermore, they state that since Decree 173 was eliminated on May 2, 1989, no further benefits can be accrued.

DOC Position

Since tax losses, which are partially attributable to the Degree 173 deduction, can be carried forward for five years, and these losses are adjusted for inflation, exporters may continue to receive residual benefits under this program even though it was suspended. Therefore, the Department has not adjusted the cash deposit rate to take into account the suspension of the program. (*See*, Section I.D. of this notice.)

Comment 11

Petitioners contend that any benefit CF received pursuant to the Industrial Promotion Law under Resolution 1156 is limited to exporters, and that the Department should therefore include this benefit in this subsidy calculations.

Respondents argue that benefits under the Industrial Promotion Laws are not restricted to exporters and cannot be analyzed as export subsidies. They further contend that the Department has in the past analyzed the Industrial Promotion Laws as domestic programs, and that the Department verified that Resolution 1156 was not limited to a specific industry.

DOC Position

Decree 964, under which Resolution 1156 was promulgated, specifically states that it is meant to "increase the level of exportation." There is no other evidence on the record to indicate that the benefit received by CF was not contingent upon its export performance. Furthermore, when the Department previously found programs under the Industrial Promotion Law to be not limited to a specific industry or group of industries (*see*, Final Countervailing Duty Determination: Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina, 49 FR 18006, April 26, 1984), Decree 964 of 1988 was not in effect. We have therefore determined this benefit to be an export subsidy for purposes of this determination. (*See*, section I.E. of this notice.)

Comment 12

Petitioners assert that if duty drawback payments received by respondents are excessive, the Department should include the excess drawback portion as a countervailable benefit.

Respondents argue that there is no evidence on the record which indicates the Argentine drawback system grants excessive rebates of important duties or that it rebates duties on non-physically incorporated inputs. Furthermore, respondents assert that the Argentine drawback system satisfies the Department's three-part test: (1) It operates for the purpose of rebating import charges; (2) the government established a reasonable system to ascertain the level of drawback based on the import duties paid for the chemicals used to produce each type of leather exported; and (3) the government periodically re-examines and adjusts the drawback rate to reflect changes in import duties. Therefore, there is no reason for the Department to consider duty drawbacks a countervailable benefit.

DOC Position

We established that the Argentine duty drawback system does satisfy the Department's three-part test with respect to exports of leather products. Furthermore, we found no evidence that respondents received excessive drawbacks. Therefore, we do not consider the drawbacks received by respondents to bestow a counteravailable benefit.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, inspecting internal documents and ledgers, tracing information in the responses to source documents, accounting ledgers and financial statements, and collecting additional information that we deemed necessary for making our final determination. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (B-099) of the Main Commerce Building.

Suspension of Liquidation

In accordance with section 776 of the Act, we are directing the U.S. Customs Service to suspend liquidation on all entries of leather from Argentina which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require cash deposits on all entries of the subject merchandise in the amounts indicated below:

Manufacturer/producer/exporter	Estimated net bounty or grant (percent)
Ultrahide	24.16
Esposito	8.02
All others	14.97

This suspension will remain in effect until further notice.

This determination and order are published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Dated: September 24, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-23195 Filed 10-1-90; 8:45 a.m.]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: Department of Commerce International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 90-00009.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the Port Authority of New York & New Jersey. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The

regulation implementing title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products and Services

All products and services.

2. Export Trade Facilitation Services (as they relate to the export of products and services)

All trade facilitation services in connection with the export of products and services, including consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, trade documentation, freight forwarding, communication and processing of foreign orders, warehousing, foreign exchange and financing.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) and the Republic of South Africa.

Export Trade Activities and Methods of Operation

The Port Authority may:

1. Require that exporters using its trade facilitation services sign exclusive dealing contracts allowing the Port Authority to be their sole export intermediary for sales to specified markets.

2. Require exporters using its trade facilitation services to export through the Port of New York and New Jersey.

3. Sign exclusive distributionship agreements with other export intermediaries which require such other export intermediaries not to handle competing products and services.

4. Sign exclusive arrangements with its clients that require the Port Authority not to represent competing companies.

Definitions

Export Intermediary means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of export trade facilitation services.

Dated: September 25, 1990.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 90-23194 Filed 10-1-90; 8:45 am]

BILLING CODE 3510-DR-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Completion

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of completion of panel review of the final affirmative threat of injury and negative material injury determinations made by the United States International Trade Commission, respecting new steel rails from Canada, Secretariat. File No. USA-89-1904-09/10.

SUMMARY: Pursuant to rule 81 of the *Article 1904 Panel Rules* ("Rules"), the Panel Review the final determination described above was completed on September 13, 1990.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, Suite 4012, 14th and Constitution Avenue, Washington, DC 20230, (202) 377-5438.

SUPPLEMENTARY INFORMATION: By a decision dated August 13, 1990, the Binational Panel affirmed the USITC's final affirmative threat of injury and negative material injury determinations Notice of the panel decision was published in the **Federal Register** on August 31, 1990 (55 FR 35704).

No request for an extraordinary challenge committee has been filed with the responsible Secretary. Accordingly, pursuant to rule 81, this Notice of Completion of Panel Review shall be effective on September 13, 1990, the 31st day following the filing of the Panel Deceision. Pursuant to rule 85, the panelists are discharged from their duties effective September 13, 1990

Dated: September 26, 1990.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 90-23249 Filed 10-1-90; 8:45 am]

BILLING CODE 3510-GT-M

DEPARTMENT OF EDUCATION

Special Study Panel on Education Indicators; Meeting

AGENCY: Special Study Panel on Education Indicators, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Special Study Panel on Education Indicators. This notice also describes the function of the Study Panel. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: November 1, 1990, 9 a.m. to 5:30 p.m. and November 2, 1990, 9 a.m. to 4 p.m.

ADDRESSES: Hyatt Regency—Bethesda, 1 Bethesda Metro Center, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Paul Mertins, National Center for Education Statistics, 555 New Jersey Avenue, NW., Washington, DC 20208-5650, (202) 357-6369.

SUPPLEMENTARY INFORMATION: The Special Study Panel on Education Indicators is established under section 406(g)(3) of the General Education Provisions Act (20 U.S.C. 1221e-1). The Study Panel is established to make recommendations concerning the determination of education indicators. The Study Panel advises the Commissioner of the National Center for Education Statistics on the development of indicators on the current state of the American education system. The meeting of the Study Panel is open to the public. The agenda includes the following items: November 1—Review of Study Panel's progress and discussion of indicators within six education issue areas; November 2—continued discussion of appropriate indicators for each issue area.

Records are kept of all Study Panel proceedings and are available for public inspection from 9 a.m. to 5 p.m. at the office of the Study Panel at the National Center for Education Statistics, 555 New

Jersey Avenue, NW., room 518, Washington, DC 20208.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 90-23197 Filed 10-1-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance: State of Idaho, Boise, ID

ACTION: Notice of Noncompetitive Grant award to the State of Idaho.

SUMMARY: "Research & Development Grant—Environmental Oversight and Monitoring Agreement."

The U.S. Department of Energy (DOE), Idaho Operations Office, intends to negotiate, on a noncompetitive basis, a grant for approximately $3,300,000 with the State of Idaho, Boise, ID. This grant will carry the activity through September 30, 1994. This action is authorized by 42 U.S.C. 2011 *et seq.* The Secretary of Energy announced a Ten Point Plan designed to chart a new course for the DOE toward full accountability in the areas of environmental protection and public health and safety. Idaho was invited to participate in negotiations which led to the execution of a formal Agreement between Idaho and DOE. The objective of the Agreement is to assure the citizens of Idaho that health, safety and the environment are being protected through DOE actions. The implementation of the Agreement is in two parts, (1) the Environmental Oversight and Monitoring grant which was announced previously and (2) this Research and Development grant. The intent of this second grant is to develop State resources and capabilities to run the State Independent Monitoring and Oversight Program. The State of Idaho and State universities and colleges will develop innovative techniques and new technologies to conduct research and development on environmental monitoring problems at the INEL. The activities funded will also train technicians and develop necessary technologies to fulfill the oversight and monitoring Agreement. The Agreement provides the State with the means to assume a more substantive role in overseeing DOE's Compliance with State environmental laws and to help it to assure the citizens of Idaho that DOE operations do not constitute a health hazard. The authority and justification for determination of noncompetitive financial assistance is DOE Financial Assistance Rules 10 CFR part 600.7(b)(2)(i)(C). The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity. The work definitely meets the intent of the Secretary's Ten Point Plan and addresses a public need (assuring that DOE operations do not constitute a health hazard). Public response may be addressed to the contract specialist below.

Contact: U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, Marshall Garr, Contract Specialist (208) 526-1536.

Dated: September 19, 1990.

R. Jeffrey Hoyles,

Director, Contracts Management Division.

[FR Doc. 90-23281 Filed 10-1-90; 8:45 am]

BILLING CODE 6450-01-M

Assistant Secretary for International Affairs and Energy Emergencies

EURATOM; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/SW(EU)-147, for the transfer from Germany to Sweden of 416.556 kilograms of natural uranium, and 2,967.716 kilograms of uranium enriched to an average of 3.1 percent in the isotope uranium-235, in the form of fuel elements for the OKG-1 power reactor, in Sweden.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on September 27, 1990.

Richard H. Williamson,

Associate Deputy Assistant Secretary for International Affairs.

[FR Doc. 90-23278 Filed 10-1-90; 8:45 am]

BILLING CODE 6450-01-M

EURATOM; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/SW(EU)-146, of the transfer from Germany to Sweden of 4 irradiated fuel rods containing 722 grams of uranium, enriched to approximately 3.2 percent in the isotope uranium-235, for use in a research and development project on fuel behavior. Upon completion of the project, the fuel rods will be disposed of as waste.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on September 27, 1990.

Richard H. Williamson,

Associate Deputy Assistant Secretary for International Affairs.

[FR Doc. 90-23279 Filed 10-1-90; 8:45 am]

BILLING CODE 6450-01-M

Euratom; Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the

Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangements to be carried out under the above-mentioned agreements involves approval of the following retransfers: RTD/JA(EU)-51, for the transfer from Germany to Japan of 4,100 grams of uranium, enriched to 19.75 percent in the isotope uranium-235, for use as fuel elements for the JRR-3 research reactor. RTD/JA(EU)-50, for the transfer from Germany to Japan of fuel elements containing 96,272 grams of uranium, enriched to 19.95 percent in the isotope uranium-235, for use as fuel in the JRR-3 research reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC, on September 27, 1990.

Richard H. Williamson,

Associate Deputy Assistant Secretary for International Affairs.

[FR Doc. 90-23280 Filed 10-1-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-587-000, et al.]

Nevada Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 25, 1990.

Take notice that the following filings have been made with the Commission:

1. Nevada Power Co.

Docket No. ER90-587-000

Take notice that on September 18, 1990, Nevada Power Company (Nevada) tendered for filing a tariff schedule entitled Supplemental Service—Silver State Power Association (Silver State) hereinafter "the Schedule". The primary purpose of the Schedule is to establish the rates and terms for the sale of firm supplemental power to members of Silver State who have executed supplemental power agreements with Nevada.

Nevada requests an effective date of September 1, 1990 and therefore requests waiver of the Commission's notice requirements.

Nevada states that copies of the filing were served upon the members of Silver State.

Comment date: October 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Public Service Co.

Docket No. ER84-604-015

Take notice that on September 17, 1990, Southwestern Public Service Company (SWEPCO) tendered for filing its compliance refund report pursuant to the Commission's orders issued on May 3, 1990 and August 31, 1990 in this docket.

Comment date: October 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-23198 Filed 10-1-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearing and Appeals

Cases Filed During the Week of August 17 Through August 24, 1990

During the Week of August 17 through August 24, 1990, the appeals and applications for exception or other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: September 24, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 17 through August 24, 1990]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 20, 1990	Franc Pajek Company, Walnut Creek, CA 94596	LFA-0065	Appeal of an information request denial. If granted: Franc Pajek Company would receive access to DOE information.
Aug. 20, 1990	Paul I. Noel, Patton, PA 16668	LFA-0064	Appeal of an information request denial. If granted: Paul I. Noel would receive information regarding a disability he received when working on a contaminated radiation engine during his early military service.
Aug. 21, 1990	Roy P. Lessy, Jr. Washington, DC	LFA-0066	Appeal of an information request denial. If granted: The August 6, 1990 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and Roy P. Lessy, Jr. would receive access to DOE information.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case number
8/17/90 thru 8/24/90.	Crude Oil refund, application received.	RF272-80491 thru RF272-80894.
8/17/90 thru 8/24/90.	Texaco Oil refund, application received.	RF321-9070 thru RF321-9209.
8/17/90 thru 8/24/90.	Gulf Oil refund, application received.	RF300-11539 thru RF300-11704.
8/20/90	Robbinsdale Spur	RF309-1413.
8/21/90	S.K. Harrell	RF307-10147.
8/23/90	Dudley Fuel Co., Inc.	RF323-7.
8/23/90	Colma Arco Service	RF304-11958.
8/24/90	Shell Service Center	RF315-10036.
8/24/90	Keenan's Oil Service, Inc..	RF323-8.
8/24/90	H.C. Woodmansee	RF323-9.

[FR Doc. 90-23284 Filed 10-1-90; 8:45 am]
BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 90-35-NG]

Amoco Energy Trading Corp.; Order Granting Blanket Authorization To Import Canadian Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import Canadian natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Amoco Energy Trading Corporation blanket authorization to import up to 300 Bcf of Canadian natural gas over a two-year term under contracts with terms of two years or less beginning September 23, 1990.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., September 25, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-23282 Filed 10-1-90; 8:45 am]
BILLING CODE 6450-01-M

[FE Docket No. 90-28-NG]

Great Lakes Gas Transmission Co. Great Lakes Gas Transmission Limited Partnership; Order Reassigning Existing Authorizations To Import and Export Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order reassigning existing authorizations to import and export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order authorizing Great Lakes Gas Transmission Limited Partnership (Great Lakes LP) to succeed to all of Great Lakes Gas Transmission Company's (Great Lakes) existing authorization to import an export natural gas and also authorizing Great Lakes LP to be substituted as applicant in Great Lakes' pending request for import and export authority.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 25, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-23283 Filed 10-1-90; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; During the Week of June 25 Through June 29, 1990

During the week of June 25 through June 29, 1990, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

American Federation of Government Employees, Local 3824, AFL-CIO, 6/26/90, LFA-0046

The American Federal of Government Employees, Local 3824, AFL-CIO (AFGE), filed an Appeal from a denial by the Western Area Power Administration (WAPA) in Golden, Colorado, of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that WAPA had inadequately explained its decision to withhold position descriptions. Consequently, the DOE instructed WAPA to issue a new determination on AFGE's FOIA request. Important issues that were considered in the Decision and Order were: (i) The standards for the adequacy of a FOIA determination; (ii) the standards to invoke Exemption 6; (iii) the possible application of OMB regulations on release of position descriptions, job elements, and performance standards; (iv) the standards for segregation and release of non-exempt materials; and (v) the inapplicability of the Privacy Act as a justification for withholding responsive documents under the FOIA.

Electronic Data Systems Corporation, 6/27/90, LFA-0047

The Electronic Data Systems Corporation (EDS) filed an Appeal from a denial by the Contracting Officer (CO) of the Bonneville Power Administration (BPA) of the DOE of a request for documents under the Freedom of Information Act (FOIA). The EDS appealed that the BPA had withheld the entirety of the cost proposal, technical proposal, and best and final offer submitted by the Unisys Corporation in its winning bid for the BPA Contract No. DE-AC79-90BP1145. The BPA withheld the documents based upon a finding that the material was exempt from disclosure under Exemption b (4) of the FOIA. In considering the Appeal, the DOE found that the CO had not adequately justified the withholding of the entirety of the documents. Therefore, the OHA remanded the matter for the CO to fomulate a more adequate determination.

Frank Pajek Company, 6/25/90, LFA-0050

On June 8, 1990, Frank Pajek Company (Pajek) filed a Motion for Reconsideration of a Decision and Order issued to it on May 22, 1990, by the DOE. In that Decision, the DOE denied Pajek's Appeal from a denial by the Acting Assistant Manager for Administration of the DOE San

Francisco Operations Office. The Acting Assistant Manager had denied a request for information filed pursuant to the Freedom of Information Act for a copy of all of the bids submitted for the Lawrence Livermore National Laboratory's Labor Only Contract RFQ #5724900A. The DOE had found that Pajek's request had been currently denied since all the requested material was confidential and commercial or financial information within the purview of Exemption 4. In considering the Motion for Reconsideration, the DOE found that Pajek had not demonstrated the existence of any changed circumstances or an error that would warrant a change in its Decision to withhold bid information. Accordingly, the DOE denied Pajek's Motion for Reconsideration.

Natural Resources Defense Council, 6/28/90, KFA–0057

The Natural Resources Defense Council (NRDC) filed an Appeal from a denial by the Office of Classification of a Request for Information that the NRDC had submitted under the Freedom of Information Act. Upon review by the Office of Defense Programs, the DOE found that the requested information no longer contained Unclassified Controlled Nuclear Information, and therefore, the material could be released. Accordingly, the DOE ordered the Office of Classification and Technology Policy to release the requested information to the NRDC.

William R. Bowling II, 6/27/90, KFA–0258

William R. Bowling II filed an Appeal from a partial denial by the Director of the Office of the Executive Secretariat of a Request for Information that he filed under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE determined that most of the material previously deleted from the redacted copy of the document provided to Mr. Bowling was properly classified and thus had been properly withheld under Exemption 3 of the FOIA. However, the DOE determined that certain information that was previously withheld could now be released. Accordingly, the Appeal was denied in part and granted in part.

Implementation of Special Refund Procedures

Green Oil Company, 6/26/90, LEF–0013

The DOE issued a Decision and Order implementing a plan for the distribution of $221.64, plus accrued interest, received pursuant to a Remedial Order issued to Green Oil Company on October 24, 1978. In accordance with the Remedial Order, Green made direct refunds to its customers. The DOE concluded that the balance of the Green remedial order fund is in excess of the amount needed to make restitution to its injured customers and, therefore, should be deposited in the U.S. Treasury for use by the states in energy conservation programs in accordance with section 3003(d) of the Petroleum Overcharge Distribution and Restitution Act of 1986.

Refund Applications

Exxon Corporation/Firestone Tire and Rubber Company, 6/29/90, RF307–10034

The DOE issued a Decision and Order granting an Application for Refund filed by Firestone Tire and Rubber Company in the Exxon Corporation special refund proceeding. Firestone estimated its monthly purchases from Exxon using actual invoices from certain years during the consent order period. Because Firestone clearly explained its estimation methodology and because its estimates were reasonable in light of the purchase records which were available, its purchase volume figures were accepted. The refund granted in this Decision was $3,240 ($2,479 principal plus $761 interest).

Exxon Corporation/Sabine Towing & Transportation, 6/29/90, RF307–10131

The DOE issued a Supplemental Decision and Order to Sabine Towing & Transportation in the Exxon Corporation special refund proceeding to correct the amount of the refund granted to the firm in an earlier decision. In the original Decision and Order, Sabine was granted a refund of $1,969 ($1,507 principal plus $462 interest). Upon review, however, it was determined that the correct amount of the refund was $2,427 ($1,857 principal plus $570 interest).

Exxon Corporation/Victor C. Smith, 6/27/90, RF307–10130

The DOE issued a Decision and Order concerning two Applications for Refund and two refunds that were granted to Victor C. Smith from consent order funds obtained from Exxon Corporation. In the Decision and Order, the DOE determined that Mr. Smith owned only one retail motor gasoline outlet during the consent order period (January 1, 1973, through January 28, 1981) and therefore should have filed only one refund Application. The DOE determined that one of the refunds was improperly granted and should be immediately rescinded. The DOE also determined that the second refund should also be rescinded unless, within 30 days of the date of the Decision and Order, Mr. Smith submits a satisfactory explanation for his filing of two Applications, the mispresentations in those Applications, and his failure to notify the DOE of his receipt of an unwarranted refund. The DOE concluded that Mr. Smith should remit $2,013 (representing the refund granted to Mr. Smith plus interest accrued since the date of payment) to the DOE for deposit in the Exxon escrow fund.

Gulf Oil Corporation/Brantley's Holiday Gulf, Et al., 6/28/90, RF300–8173, Et al.

The DOE issued a Decision and Order concerning five Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. None of these five applicants were able to substantiate the claim that they were purchasers of Gulf products during the consent order period. Accordingly, the five Applications were denied.

Gulf Oil Corporation/Cache Road Ice Dock, Et al., 6/27/90, RF300–61, Et al.

The DOE issued a Decision and Order concerning five Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each applicant established that it purchased some or all of its Gulf products indirectly from a Gulf jobber. The jobbers that supplied these five applicants either have not applied in the Gulf proceeding or have already received refunds under the presumptions of injury. Accordingly, we treated the five applicants in the same manner as we generally treat applicants that purchased directly from Gulf. Each Application was approved using a presumption of injury. The sum of the refunds granted in this Decision is $18,060.

Gulf Oil Corporation/Daniels Gulf Service, East Stone Drive Gulf, 6/29/90, RF300–8660, RF300–8707

The DOE issued a Decision and Order concerning two Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding on behalf of Daniels Gulf Service and East Stone Drive Gulf. Neither applicant substantiated the claim that it was a purchaser of Gulf products during the consent order period. Accordingly, both Applications were denied.

Gulf Oil Corporation/Goodell's Service, 6/27/90, RF300–8590

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding on behalf of

Goodell's Service. Goodell's established that it purchased Gulf products indirectly from a Gulf jobber that in turn did not show that it absorbed any of Gulf's alleged overcharges. Accordingly, Goodell's was treated in the same manner as we generally treat applicants who purchased directly from Gulf. The Application was approved using a presumption of injury. The refund granted in this Decision is $1,678.

Pepsi-Cola San Joaquin Bottling Company, 6/27/90, RF272–43735

The DOE issued a crude oil refund to Pepsi-Cola San Joaquin Bottling Company (San Joaquin). Two Waiver and Releases had been signed by affiliates of San Joaquin that had filed refund claims in the Surface Transporters refund proceeding. The DOE found that the Waivers were not binding on San Joaquin because San Joaquin did not become affiliated with the Waiver-signing firms until seven months after it filed its crude oil refund Application. If San Joaquin's Application had been evaluated as soon as it was received by DOE, the firm would have been granted a refund. The DOE found that it would therefore be inequitable to deny San Joaquin a refund. The firm was accordingly granted a refund of $1,207 based on its purchases of 1,509,194 gallons of petroleum products.

Schwan's Sales Enterprises, 6/29/90, RF272–6111, RD272–6111

The DOE issued a Decision and Order granting an Application for Refund filed by Schwan's Sales Enterprises, Inc., in the subpart V crude oil special refund proceeding. In that Decision and Order, the DOE found that the applicant was an end-user of the refined petroleum products for which it sought a refund, because the products were consumed in the course of its normal business activities as a vendor of frozen foods. Since this activity is not related to the petroleum industry, the applicant was presumed to have been injured by the crude oil overcharges. A consortium of 30 states and 2 territories (the States) filed objections and a Motion for Discovery with respect to this Application. In their submission, the States attempted to rebut the end-user presumption of injury. The DOE determined that the presumption was applicable to the applicant, and that the Motion for Discovery should be denied. The DOE further determined that a refund of $53,824 should be granted to Schwan's Sales Enterprises.

Shell Oil Company/Crawford Oil Co., Inc., Et al., 6/27/90, RF315–4489, Et al.

The DOE issued a Decision and Order granting 32 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each applicant was granted a refund under the presumption for mid-level claimants. In cases where an individual or firm submitted more than one Application, the claims were consolidated. The total of the refunds granted in the Decision was $120,667 ($95,103 principal plus $25,667 in interest).

Standard Oil Co. (Indiana), Et al./Oklahoma, 6/27/90, RM21–204 Et al., RQ–556

The State of Oklahoma requested permission to use a total of $120,000 in second-stage funds to initiate two Restitutionary programs. The State proposed to expend $20,000 on the Joint Transportation Demonstration Project to encourage the utilization of public transportation in the Oklahoma City area and to expend $100,000 in its Oil Collection and Recycling Program to establish used motor oil recycling centers in communities throughout the State. These programs would be funded by the State's remaining $47,474 ($22,109 in principal and $25,365 in interest) in *Vickers* monies and $72,526 in interest which has accrued on previously disbursed second-stage monies since their deposit in a State investment account. Oklahoma's second-stage Application for Refund and its Motions for Modification were approved in full, because the two programs should provide Restitutionary benefits to the State's consumers of petroleum products in a timely manner.

Texaco Inc./Abbott's Texaco, 6/25/90, RF321–21, RF321–5603

The DOE issued a Decision and Order denying duplicate refund Applications filed by Abbott's Texaco in the Texaco, Inc. special refund proceeding. The applicant filed two Applications for the same retail outlet. Both Applications certified that the applicant had filed only one refund Application in the Texaco refund proceeding. In view of the false certification, the DOE determined that both refund Applications should be denied.

Texaco Inc./Smith Bros. Texaco, 6/28/90, RF321–4557, RF321–5660

The DOE issued a Decision and Order denying duplicate refund Applications filed by Smith Bros. Texaco in the Texaco, Inc. special refund proceeding. The Applicant filed two Applications within one month of each other. Both Applications certified that the Applicant had filed only one refund Application in the Texaco refund proceeding. In view of the false certification, the DOE determined that both refund Applications should be denied.

Vickers Energy Corp./Missouri, 6/26/90, RQ1–553

The DOE issued a Decision and Order involving a second-stage refund Application filed by the State of Missouri in the Vickers special refund proceeding. The State asked that the DOE disburse to it $168,769 in previously approved Vickers funds. The DOE had been unable to disburse these funds pending the outcome of *Highland Petroleum, Inc.* v. *United States Department of Energy*, No. 85–C–545 (D.Colo. June 2, 1985). As the DOE was now able to release the funds, Missouri's request was granted.

Refund Applications

The Office of Hearings and Appeals granted refunds to refund applicants in the following Decisions and Orders:

Name	Case no.	Date
Atlantic Richfield Co./Rias Arco, *et al.*	RF304–4202	6/29/90
Buffalo Fuel Copr., Inc., *et al.*	RF272–68512	6/29/90
City of Gastonia, *et al.*	RF272–60004	6/27/90
Connelly Farms, *et al.*	RF272–66002	6/27/90
Continental Trend Resources, *et al.*	RF272–42021	6/27/90
Exxon Corp./Bumgarner Oil Co., Inc., *et al.*	RF307–5987	6/27/90
Exxon Corp./Federal Express Corp.	RF307–5729	6/29/90
Gulf Oil Corp./A.C. Wagley, Inc., *et al.*	RF300–5890	6/29/90
Gulf Oil Corp./Buck's Gulf Service, *et al.*	RF300–8178	6/27/90
Gulf Oil Corp./Genstar Stone Products Co.	RF300–10383	6/29/90
Gulf Oil Corp./Jones Gulf Service Giacobbe's Gulf	RF300–10449, RF300–10702	6/29/90

Name	Case no.	Date
Imperial MFG. Co., *et al.*	RF272-63005	6/27/90
National Starch/Chemcial Corporation, *et al.*	RF272-61004	6/28/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Alan Elliott Blonder	RF321-3008
Bernie's Getty Service	RF321-2380
Bethany Service Center	RF307-205
Bill Lepley's Gulf	RF300-10804
Daly's Arco	RF304-9771
Deal & Sullivan Texaco	RF321-4817
Deerfield Arco	RF304-5980
Dudley Oil Co.	RF321-3465
Farmers Cooperative Grain & Supply Co.	RF321-6327
Hilltop Skelly	RF321-2417
Hite Oil Co.	RF321-2416
Holiday Inn Texaco	RF321-6690
Hupp Texaco	RF321-1066
Logan Valey Mall Arco	RF304-9707
Longie's Gulf	RF300-11078
McKeens Exxon	RF307-9963
Merchant's Square Exxon	RF307-10076
Merritt Oil Co.	RF321-4252, RF321-4392, RF321-6332
Morris & Ray's Service Station	RF315-2600
Pariseau Bros. Getty	RF321-2412
Perlis Truckstop	RF307-6967
Quin's Gulf Service	RF300-10992
Rabon's Gulf Service	RF300-11125
Ranweiler Service Station	RF321-5206
Ted Fox Gulf	RF300-10970
Thomson's Texaco	RF321-3479
Valley Arco	RF304-9638

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: September 26, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-23285 Filed 10-1-90; 8:45 am]

BILLING CODE 6450-01-M

Notice of Issuance of Decisions and Orders During the Week of July 16 Through July 20, 1990

During the week of July 16 through July 20, 1990 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Donald J. Anderson, 7/16/90, LFA-0052

Donald J. Anderson filed an Appeal from a determination issued by the Albuquerque Operations Office (AOO) that withheld under the personal privacy exemption the name of the author of a memorandum Mr. Anderson requested in his Freedom of Information Act (the FOIA) request. In considering the Appeal, the DOE found that the justification for withholding the requested information was inadequate under the FOIA because it failed to state the nature of the privacy interest involved. The Appeal was therefore granted and the matter was remanded to the AOO, who was directed to either release the information or issue a new determination.

Radiation Sterilizers, Incorporated, 7/16/90, LFA-0053

Radiation Sterilizers, Incorporated (RSI) filed an Appeal from a determination issued by the Oak Ridge Operations Office (Oak Ridge) in which Oak Ridge released all the documents requested in RSI's Freedom of Information Act (the FOIA) request but withheld under Exemption 5 handwritten notes on the front page of one of the released documents. In considering the Appeal, the DOE found that the notes reflected the author's predecisional opinions and were therefore the kind of information that the deliberative process privilege of Exemption 5 was designed to protect. The Appeal was therefore denied.

Request for Modification and/or Rescission

Texas, 7/16/90, LER-0005

The DOE issued a Decision and Order denying a Motion for Reconsideration filed by the State of Texas concerning its previously approved Energy Resource Optimization program. This program will use $8 million in Stripper Well monies to provide grants to institutions such as universities to make detailed computer models of oil and gas reservoirs located on State lands. Texas had asked that the OHA remove the restriction that it had placed on this program forbidding the participation of Stripper Well plaintiffs in the program. Texas requested that Chevron, the successor in interest to Gulf, a plaintiff, and Oryx Energy Company, a spin-off of Sun Company, another plaintiff, be allowed to participate in the program. The DOE denied the State's request, concluding that it would be inequitable for those entities which caused the Stripper Well overcharges to benefit from state programs designed to redress those overcharges.

Refund Applications

Exxon Corporation/Belcher Oil Co. et al., 7/19/90 RF307-8734 et al.

The DOE issued a Decision and Order concerning six Applications for Refund filed in the Exxon Corporation special refund proceeding. Since all of the applicants are currently owned by the Coastal Corp., the volume totals from these applications were combined in order to determine Coastal's allocable share. Since Coastal did not provide a detailed demonstration of injury, it received 40 percent of its allocable share under the medium-range presumption of injury. The refund granted in this Decision was $65,785 ($50,000 principal plus $15,785 interest).

Exxon Corporation/Martin's Exxon, 7/20/90, RF307-10137

The DOE issued a Decision and Order rescinding a duplicate refund of $350 granted to Martin's Exxon (Martin's) in the Exxon Corporation special refund proceeding. The Decision stated that unless Martin's satisfactorily explained its filing of duplicate applications and its acceptance of the double refund, the DOE would consider the sanction of rescinding both refunds.

Gulf Oil Corporation/Anderson's Gulf, 7/20/90, RR300-6

The DOE issued a Decision and Order concerning a Motion for Reconsideration submitted on behalf of Anderson's Gulf (Anderson's) in the Gulf Oil Corporation special refund proceeding by Federal Refunds, Inc. Anderson's original application was denied a refund because the applicant was unable to demonstrate that it purchased Gulf products during the consent order period. However, in its Motion for Reconsideration, Anderson's was able to demonstrate that it did purchase Gulf products during this period, and therefore was granted a refund using a presumption of injury. The refund granted to Anderson's in this Decision, which includes principal and interest, is $1,314.

Gulf Oil Corporation/C&G Gulf Service, 7/20/90, RF300–8183

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation refund proceeding on behalf of C&G Gulf Service. C&G Gulf Service did not substantiate its claim as a purchaser of Gulf products during the consent order period. Accordingly, the Application was denied.

Gulf Oil Corporation/Craig's Gulf Service Country Gulf, 7/18/90, RF300–10424, RF300–10853

The DOE issed a Decision and Order denying Applications for Refund filed by Craig's Gulf Service and Country Gulf in the Gulf Oil Corporation refund proceeding. Despite several requests, the firms did not submit any sample records, such as invoices or tax forms, to substantiate their claim that they were in the business of retailing Gulf products during the consent order period. Therefore, the Applications were denied.

Gulf Oil Corporation/Marlton Gulf, Hudson Gulf Service, Pecosh Gulf, RF300–10431, RF300–10436, RF300–10439

The DOE issued a Decision and Order denying Applications for Refund in the Gulf Oil Corporation refund proceeding filed by Marlton Gulf, Hudson Gulf Service, and Pecosh Gulf. Despite several requests the firms did not submit sample records, such as invoices or tax forms, to substantiate their claim that they were in the business of retailing Gulf products during the consent order period. Therefore, the Applications were denied.

Gulf Oil Corporation/Ranch Acres Gulf, Anadarko Service, Rainbow Gulf, 7/16/90, RF300–10434, RF300–10435, RF300–10602

The DOE issued a Decision and Order denying Applications for Refund in the Gulf Oil Corporation refund proceeding filed by Ranch Acres Gulf, Anadarko Gulf, and Rainbow Gulf. Despite several requests from the OHA, the firms did not submit sample records, such as invoices or tax forms, to substantiate their claim that they were in the business of retailing Gulf products during the consent order period. Therefore, the Applications were denied.

Gulf Oil Corporation/W.W. Davidson, 7/18/90, RF300–11166

The DOE issued a Supplemental Order rescinding a duplicate refund in the amount of $3,611 granted to W.W. Davidson in the Gulf Oil Corporation refund proceeding.

Murphy Oil Corporation/Lutz-Yelton Oil Company, Inc., Space Petroleum, Inc., 7/19/90, RF309–1285, RF309–1286

The DOE issued a Decision and Order granting two Applications for Refund in the Murphy Oil Corporation special refund proceeding. Since the two applicants were merged into the same parent company, the parent company was granted a single refund under the mid-level reseller injury presumption, based on the combined purchases of the applicants. The total refund granted was $6,560 ($5,094 in principal and $1,466 in interest).

Murphy Oil Corporation/Williamson Spur Oil, Bill's River Service, 7/16/90, RF309–1395, RF309–1402

The DOE issued a Decision and Order granting a portion of one Application for Refund and denying another Application for Refund in its entirety in the Murphy Oil Corporation special refund proceeding. The two applicants were preliminarily identified as spot purchasers. Since neither applicant showed that it was a regular purchaser of Murphy petroleum products or attempted to rebut the spot purchaser presumption of non-injury, the portions of the applicants based on spot purchases were denied. However, one of the claimants did purchase motor gasoline on a regular basis from Murphy, and it was granted a refund of $2,223 ($1,726 in principal and $497 in interest) under the small claims injury presumption based on these purchases.

OSCO Shipping A/S, 7/20/90 RF272–43252

The DOE issued a Decision and Order in the Subpart V crude oil overcharge refund proceeding granting a refund to Osco Shipping A/S, foreign flagship carrier. Osco purchased 15,724,612 gallons of petroleum products in the United States during the period of price controls. Osco was accordingly granted a refund of $12,580.

Philadelphia Dry Yeast Company, Inc., 7/20/90, RC272–93

The DOE issued a Decision and Order rescinding a $1,340 refund granted to Philadelphia Dry Yeast Company, Inc. in the crude oil overcharge refund proceeding, because the applicant had not provided a curent correct address to which to send its refund check.

Plaquemines Oil Sales Corp./Buras Fuel Docks, 7/17/90, RR305–4

The DOE issued a Decision and Order denying Buras fuel Docks' second Motion for Reconsideration of a denial of its refund application in the Plaguemines Oil Sales Corp. special refund proceeding. The DOE determined that the pricing information recently uncovered by Buras was not sufficient to alter the DOE's earlier determination that the claimant was not injured. The DOE further found that Buras' representative should have made an adequate seach for additional information before filing the prior Motion for Reconsideration on behalf of the firm. Accordingly, the firm's Motion for Reconsideration was denied.

R.S. Albright, Inc., 7/19/90, RC272–92

The DOE issued a Decision and Order rescinding a $2,722 refund granted to R.S. Albright, Inc. in the crude oil overcharge refund proceeding, because the applicant had failed to provide a current correct address to which to send its refund check.

Safeway Stores Inc., 7/20/90, RF272–23633, RD272–23633

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Safeway Stores, Inc., based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. The applicant is a retailer and manufacturer of food products and an end-user of refined petroleum products. The DOE rejected the arguments of a group of states contending that since the demand for food is inelastic, firms in the food industry would have been able to pass through increased fuel costs. The DOE found these arguments too vague and general to warrant credence. The DOE also rejected a Motion for Discovery filed by the States. Accordingly, the DOE granted Safeway a refund of $157,536.

Standard Oil Co. (Indiana)/Texas, Charter Oil Company/Texas, National Helium Corporation/Texas, Vickers Energy Corporation/Texas, Pennzoil Company/Texas, OKC Corporation/Texas, Coline Gasoline Corporation/Texas, Perry Gas Processors, Inc./Texas, Standard Oil Company (Indiana) Texas, Belridge Oil Company/Texas, Palo Pinto Oil Company/Texas, Worldwide Energy Corporation/Texas, Loveladdy Oil Company/Texas, Fagadau Energy Corporation/Texas, Gas Engine and Compressor Service/Texas, ADA Resources, Inc./Texas, 7/17/90, RM251–183, RM23–184, RM3–185, RM1–186, RM10–187, RM13–188, RM2–189, RM183–190 RM21–191, RM8–192, RM5–193, RM31–194, RM33–195, RM35–196, RM32–197, RM34–198

The DOE issued a Decision and Order granting a motion for modification filed by the State of Texas requesting permission to spend $1,348,966 in unspent second-stage funds plus $1,439,914 in interest accrued on those funds on two new programs. The State proposed to spend $788,880 on a Diesel Fuel Conservation Program and $2,000,000 on a Transportation for Low-Income Persons Program. The Conservation Program would introduce a variety of conservation methods to consumers of diesel fuel. The Transportation Program would provide free transportation to welfare recipients, the elderly, and residents of institutions. The DOE found that these programs would provide restitution of injured petroleum consumers by reducing their diesel fuel consumption and costs and by providing accessible public transportation.

Refund Applications

The Office of Hearings and Appeals granted funds to refund applicants in the following Decisions and Orders:

Name	Case No.
Atlantic Richfield Co./C&C Oil & Supply Co., Inc. *et al.*	RF304-2373
Atlantic Richfield Co./Trinity Paving Co. *et al.*	RF304-9400
Delbert Devin & Sons *et al.*	RF272-72016
Diocese of Worcester *et al.*	RF272-71522
Exxon Corp./Clark Gas & Oil Co., Inc.	RF307-6820
Clark Gas & Oil Co., Inc.	RF307-6821
Nelson-Wilson, Inc.	RF307-6971
Exxon Corp./Longview Exxon Service *et al.*	RF307-863
Exxon Corp./Steven's Exxon Service *et al.*	RF307-1819
Fargo Freight Terminal and Warehouse *et al.*	RF272-63503
Gulf Oil Corp./Frank's Gulf *et al.*	RF300-8900
Gulf Oil Corp./Peacock Gulf Service Center.	RF300-5994
Peacock Oil Co.	RF300-5995
Gulf Oil Corp./Roshto Gulf	RF300-10014
Colonial Gulf	RF300-10026
Hudson Foods, Inc. *et al.*	RF272-00450
Logan Paving Co. *et al.*	RF272-70500
Shell Oil Co./Newtown Shell *et al.*	RF315-9507
Texaco Inc./Lee's Texaco Service *et al.*	RF321-602

Dismissals

The following submissions were dismissed:

Name	Case No.
Ashville Exxon	RF307-5718
Bells Rd. Exxon	RF307-8979
Bettervia Road Exxon	RF307-9430
Bob Martin Shell	RF315-9938
Bob Martin Shell	RF315-9939
Bob Martin Shell	RF315-9940
Chappell E-Z Go #33	RF304-7580, RF307-7300
Chappell E-Z Go #34	RF304-7581, RF307-7301
Colonial Gulf	RF300-11002
Doug Hughes	RF304-9602
Fisher's Bellefonte Exxon	RF307-9209
Fred Hurley Trucking Co., Inc.	RF272-75930
Garber Industries, Inc.	RF272-32272, RD272-32272
Lagrange Gulf Service Center	RF300-8233
Princess Cruises	RF272-453, RD272-453
Ramsey's Exxon	RF307-9416
Sargo's Service Center	RF315-7215
Stanley J. Doussan	RF315-9696
Tidewater Gulf	RF300-10010
Vern's E-Z Go Station #17	RF304-7436
Vern's E-Z Go Station #733	RF304-7437
Vern's E-Z Go Station #733	RF307-6910
Vern's E-Z Go Station #17	RF307-6911
Vern's E-Z Go Station #17	RF315-6274
Vern's E-Z Go Station #733	RF315-6697
Vern's E-Z Go Station #733	RF321-2747
Vern's E-Z Go Station #17	RF321-2748
Vince's Exxon	RF307-9437
Whitty's Service	RF300-9253

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: September 24, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-23286 Filed 10-1-90 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3849-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected costs and burdens; where appropriate, they include the actual data collection instruments.

DATE: Comments must be submitted on or before November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Mobile Sources Emission Factors Survey (EPA ICR # 0619.05; OMB § 2060-0060). This is a renewal of a previously approved collection.

Abstract: The Office of Mobile Sources conducts a survey by testing a random sample of privately owned motor vehicles, stratified by class, mileage, and geographical area. The purpose of the survey is to characterize levels of exhaust pollutants for each combination of class and mileage in the sample. EPA uses the data generated by this survey to model air pollution produced by mobile sources, and to determine the impact of regulations and the benefits of control programs.

Burden Statement: The public annual reporting burden for this collection of information is estimated to average .389 hour per response. This estimate includes the time needed to review instructions.

Respondents: Owners of in-use motor vehicles.

Estimated No. of Respondents: 5,270.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,051 hours.

Frequency of Collection: annually.

Title: NSPS for Synthetic Fiber Production Facilities (subpart HHH)—Information Requirements. (ICR # 1156.05; OMB # 2060-0059). This is a renewal of a previously approved collection.

Abstract: Owners or operators of synthetic fiber production facilities must notify EPA of each construction, modification, startup, shutdown, malfunction, and of the results of initial performance tests. They must record and maintain for a period of two years all data and calculations from all tests, and from the continous monitoring system. They must also report periods of excess emissions of volatile organic compounds (VOCs) quarterly; when in compliance, they must report VOC emissions semiannually. These data are used by the States and/or EPA to determine compliance with the standards, to target inspections, and, when necessary, as evidence in court.

Burden Statement: The public annual burden for this collection of information is estimated to average 12 hours per response for reporting, and 63 hours per recordkeeper. This estimate includes the

time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners or operators of synthetic fiber production facilities.

Estimated No. of Respondents: 23.

Estimated No. of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 1,995 hours.

Frequency of Collection: Quarterly or semiannually.

Title: NSPS for the Lime Manufacturing Industry (subpart HH)—Information Requirements. (ICR # 1167.03; OMB # 2060–0063). This is a renewal of a previously approved collection.

Abstract: Owners or operators of lime manufacturing facilities must notify EPA of each construction, modification, startup, shutdown, malfunction, and of the date and results of initial performance tests. Owners or operators must install, calibrate, maintain, and operate a continuous opacity monitoring system (COMS) for the measurement and recording of opacity. However, facilities with positive-pressure fabric filters may employ a certified observer to monitor visible emissions at least once a day. Owners or operators of the affected facilities must report periods of excess opacity quarterly; when in compliance, they must submit semiannul reports of opacity observations. The States and/or EPA use these data to determine compliance with the standards, to target inspections, and, when necessary, as evidence in court.

Burden Statements: The public annual burden for this collection of information is estimated to average 18 hours per response for reporting and 63 hours per recordkeeper. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed, and review the collection of information.

Respondents: Owners or operators of lime manufacturing industry.

Estimated No. of Respondents: 29.

Estimated No. of Responses Per Respondent: 2.

Estimated Total Annual Burden on Respondent: 2,879 hours.

Frequency of Collection: Quarterly and Semiannually.

Send comments regarding the burden estimates, or any other aspects of these information collections, including suggestions for reducing the burdens, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 1563.01; Regulation of Fuels and Fuel Additives: Fuel Quality Regulations for Highway Diesel Fuel Sold in 1993 and Later Calendar Years; was approved 08/08/90; OMB # 2060–0200; expires 08/31/93.

EPA ICR # 1564.02; NSPS for Small Industrial-Commercial-Institutional Steam Generating Units; was approved 09/07/90; OMB # 2060–0202; expires 09/30/93.

EPA ICR # 1570.01; Approval and Promulgation of Implementation Plans, California—South Coast Air Basin, Plans for Ozone and Carbon Monoxide (Proposed Rule); was disapproved 09/06/90.

EPA ICR # 1460.02; Survey of Pharmaceutical Industry (Detailed Questionnaire); OMB # 2040–0146. The following are the terms of clearance that accompany the OMB Notice of Action: "The information in this survey is being collected to support regulatory investigations under both the Clean Water Act and the new Clean Air Act. The ICR contains three parts: Part A for the Technical Information, part B for the Financial and Economic Information and part C for Certification. Given the information needs of the two EPA offices, OMB finds parts A and C, and section 2 of part B are approved, as amended by D. Anderson letter to T. Hunt on August 15, 1990, as they meet the requirements of the Paperwork Reduction Act. However, section 1 of part B (Facility Information) fails to meet the requirements of 5 CFR 1320.4(b) (1) and (3) and is not approved. EPA has *not* demonstrated that (1) the facility level information has practical utility in EPA's financial impact analysis under the Clean Water Act and (2) it has adopted the least burdensome alternative to fulfill its statutory obligations.

EPA shall consider making section one of part B optional for those companies willing to accept the use of company-level financial averages or certify no financial impact (i.e. plant closures and job losses) for selecting the best available technology economically achievable. In addition, EPA could conduct a random follow-up sample of facilities (company names masked to protect confidential business information) that opted out of completing the optional facility level data, if additional characteristics are necessary to complete an adequate financial impact analysis. In the course of considering alternatives to the detailed financial facility information in part B, EPA should also consider any reasonable, less burdensome alternatives for the technical information (in part A) as well, to the extent that these alternatives also meet EPA's needs. EPA shall evaluate the implications of any new options for smaller businesses as well. EPA should work with respondents and other commenters on the ICR and OMB to develop quickly a reasonable, less burdensome alternative to collecting facility financial information that meets EPA's needs. EPA shall submit a new ICR when this task is completed. OMB will review any new ICR expeditiously.

The waste minimization/pollution prevention section is unlikely to provide a sufficient basis for extrapolating a waste minimization or pollution prevention action taken at one or several sites (with their unique characteristics) to the whole industry. As a result, EPA should carefully evaluate the generalizability of the data and the need to conduct a follow-up study of any waste minimization approaches during EPA's wastestream sampling.

OMB is approving the ICR for the requested 18 months, but only for the 68,400 hours OMB estimates it would take to complete parts A, C and section 2 of part B.

Dated: September 26, 1990.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 90–23266 Filed 10–1–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3835–7]

Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions; Case-By-Case Extensions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Action to Grant Case-by-Case Extensions.

SUMMARY: EPA is granting final approval to American Cyanamid Company in Westwego, Louisiana and Celanese Engineering Resins, Inc., in Bishop, Texas for a six-month extension of the August 8, 1990, effective date of the hazardous waste injection restrictions applicable to the specific injected wastes impacted by the August 8, 1990, ban date (California listed wastes, solvents less than one (1)

percent solvent constituents and First Third wastes). This action responds to petitions submitted under 40 CFR 148.4 according to procedures set out in 40 CFR 268.5, which allows any person to request that the Administrator grant, on a case-by-case basis, an extension of the applicable effective date based on a showing that the petitioner has entered into a binding contractual commitment to construct or otherwise provide adequate alternative treatment, recovery, or disposal capacity for the petitioner's waste. The Agency proposed action on this request in a July 5, 1990, Federal Register notice (55 FR 27659). By granting approval to these case-by-case petitions, American Cyanamid and Celanese—Bishop can continue to inject the above identified wastes until February 8, 1991, but not later than this date without being subject to the prohibitions applicable to such wastes. EPA is taking no action on E.I. du Pont de Nemours & Co., Inc., in Orange, Texas for an extension of the August 8, 1990, effective date of the hazardous waste injection restrictions applicable to the California listed wastes, solvents less than one (1) percent solvent constituents and First Third wastes. The Du Pont—Orange petition for an exemption of the land disposal restrictions imposed by the Hazardous and Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act has not yet demonstrated that the no migration standard can be met. EPA must be able to propose to approve a no migration petition prior to allowing a case-by-case extension.

DATES: This action is effective August 7, 1990.

ADDRESSES: The docket for this action is located at the EPA Region 6 library, 1445 Ross Avenue, Dallas, Texas 75202, and is open during normal business hours, 8 a.m. through 4 p.m., Monday through Friday. The public can review all docket materials by visiting the library.

FOR FURTHER INFORMATION CONTACT: For information contact Oscar Cabra, Jr., Chief Water Supply Branch, EPA Region 6, 1445 Ross Avenue, Dallas, Texas, 75202–2733 or telephone (214) 655–7150, FTS 255–7150.

SUPPLEMENTARY INFORMATION:

I. Summary of Proposal and Response to Comments

A. Background

A more complete discussion of the Hazardous and Solid Waste Amendments (HSWA) of 1984 to amend the Resource Conservation and Recovery Act (RCRA), may be found in previous rulemakings by the Agency. See 55 FR 22520, June 1, 1990.

On July 26, 1988, EPA promulgated a final rule (53 FR 28118, effective August 8, 1988), that established an effective date of August 8, 1990 for injected spent F001–F005 solvent wastes containing less than 1 percent solvent constituents. An August 8, 1990, effective date was established for specified California list wastes that are deep well injected. See 53 FR 30908, effective August 8, 1988.

Section 3004(m) requires the Agency to set levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized. Wastes that meet treatment standards established by EPA are no longer prohibited and may be land disposed.

Section 3004(d), (e), (f), and (g) also allows the applicant to demonstrate to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The no migration petition process has been established by the Agency for injected wastes under 40 CFR part 148 subpart C. See 53 FR 28118, July 26, 1988.

Congress recognized that adequate alternative treatment, recovery, or disposal capacity any of which is protective of human health and the environment may not be available by the applicable statutory effective dates and authorized EPA to grant a variance (based on the earliest dates that such capacity will be available) from the effective date which would otherwise apply to specific hazardous wastes (RCRA § 3004 (h)(2) and (h)(3)). In addition, under section 3004(h)(3), the Agency can grant case-by-case extensions of the statutory deadlines for up to one year beyond the applicable deadlines. These extensions are renewable once for up to one additional year.

On November 7, 1986, EPA published a final rule (51 FR 40572) establishing the regulatory framework to implement the land disposal restrictions program including procedures for submitting case-by-case extensions under § 268.5. On July 26, 1988, EPA published a final rule (53 FR 28118) establishing restrictions and requirements for Class I hazardous waste injection wells, including the framework for the no migration petition process and allowing case-by-case extensions under § 148.4 following § 268.5 procedures.

B. Demonstration Requirements

1. Summary of Requirements

Case-by-case extension applications must satisfy the requirements outlined in 40 CFR 268.5. These requirements include those specified in RCRA section 3004(h)(3): the applicant must have entered into a binding contractual commitment to construct or otherwise provide alternative capacity (40 CFR 268.5(a)(2)), but due to circumstances beyond his control, this alternative capacity cannot reasonably be made available by the applicable effective date (40 CFR 268.5(a)(3)).

In addition, EPA has established by regulation the following requirements: the applicant must demonstrate that he has made a good faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste (40 CFR 268.5(a)(1)). Again, the applicant must demonstrate why this nationwide capacity cannot reasonably be made available by the effective date.

Additional requirements for case-by-case demonstrations are summarized in the July 5, 1990, proposal to today's notice. See 55 FR 27659.

2. Commitment to Provide Protective Disposal Capacity

EPA believes that the applicants for case-by-case extensions have shown the necessary commitment to provide protective disposal capacity within the meaning of RCRA § 3004(h)(3) and 40 CFR 268.5(a)(1). These provisions require an applicant to make two showings: (1) That the proposed "disposal capacity" is "protective of human health and the environment", and (2) that the applicant has made "a binding contractual commitment to construct or otherwise provide" such capacity. The Agency construes the first phrase to mean a no migration unit. No migration findings in 40 CFR parts 148 or 268 provide for a variance to the land disposal prohibitions and, accordingly, are functionally equivalent to compliance with treatment standards under part 268. Moreover, the statute defines protective disposal capacity for purposes of RCRA section 3004(d), (e), and (g) as no migration units. EPA also considers no migration capacity as protective disposal capacity for purposes of RCRA section 3004(h)(2).

With respect to showing a "binding contractual commitment", where applicants have already constructed (and, indeed, are operating) the disposal units at issue, EPA interprets the regulatory language to require objective indicia of applicant's commitment to

provide this capacity. EPA's approach is in line with similar practical interpretations of regulatory language. For example, the Agency has construed the term "commenced construction" to include facilities which have completed construction but did not commence operations. See 46 FR 2344, 2346 (January 9, 1981).

EPA believes that where the Agency has concluded that a no migration petition is sufficient to propose a no migration finding, this proposed finding is legitimate indicia that the applicant is, in good faith, committed to providing protective disposal capacity for purposes of 40 CFR 268.5. See 55 FR 22520. If EPA were to require an actual no migration finding as a condition for a case-by-case extension, such a reading would effectively read the phrase "protective disposal capacity" out of RCRA 3004(h)(3) in violation of all standard tenets of statutory construction, which require that all terms be given effect when possible. The term would be read out of the statute because once the no migration petition was granted, there is no need to seek a case-by-case extension as wastes could be disposed directly in the unit. In addition, case-by-case extensions necessarily involve predictions about future capacity. For example, such predictive findings specifically include the need for permits that may not yet be issued. See 40 CFR 268.5(a)(5).

Today's case-by-case extensions are based on objective indicia of the applicant's commitment to provide disposal capacity. First, the petitioner's application is based on already constructed wells. Thus, these petitioner's commitment are more definitive from petitions based solely on contracts to construct such capacity. See RCRA section 3004(h)(3). Second, the injection wells have all been permitted under both RCRA and SDWA standards, thus further demonstrating a commitment to provide this capacity. The applicants have demonstrated that only a no migration finding prevents the units from being available as protective disposal capacity. Third, today's applicants have made substantial contractual commitments in preparing the no migration petitions. Finally, EPA has a good basis for believing that this capacity will, in fact, be provided in a short period of time. Permitted hazardous waste injection wells, as a class of units, have a good record for obtaining no migration findings. EPA has already issued 21 no migration findings. EPA has already proposed approval for the no migration petitions for the facilities in this notice and believes that they will eventually be granted final approval.

3. Requirement to Seek Other Alternative Capacity

The applicant's commitment to provide protective disposal capacity is not the sole basis for EPA granting a case-by-case extension. Under 40 CFR 268.5(a)(1), applicants must also make a good faith effort to seek other protective treatment, recovery, or disposal where feasible during the period that his proposed alternative capacity is not available. Such good faith efforts under 268.5(a)(1) can be evaluated considering both the expected time period that the alternative capacity will take to become available and technical difficulties that the operator will face in bringing his waste to alternative capacity in consideration of factors in 268.5(a)(3).

There is limited other capacity under (a)(1) to eventually handle the waste from the well operators in this proposal. However, due to logistic problems of retooling, repiping, and transportation of the large volume of waste at issue, this other capacity is not reasonably available during the short period of time EPA anticipates is necessary to process final no migration approvals or denials for these wells.

4. Reasons Alternative Capacity Cannot Reasonably be Made Available by the Applicable Effective Date

Today's applicants have, in good faith, pursued the no migration process with reasonable belief that the Agency would provide a no migration finding by the August 8, 1990, effective date. The operators submitted their no migration petitions in a timely manner, and have responded appropriately to Agency requests for additional information in order to make a determination on the petition.

The timing of the actual finding is beyond the applicant's control. This no migration finding is a precondition to the provision of the alternative disposal capacity. EPA has reviewed 65 no migration petitions in an intensive, time-consuming process. The order that decisions are made are primarily a function of Agency resources and priorities. This no migration review process is the reason that the applicant's wells may not be available as no migration units by the effective prohibition dates.

The well operators in today's notice have documented several logistic problems that make short-term capacity not reasonably available. The facilities in question involve production operations directly connected by piping, or otherwise rely on immediate disposal in on-site injection wells. In order to make the necessary adjustments, the facilities would need to temporarily shutdown, perform necessary retooling and repiping, and construct a transportation system to move the large volumes of waste at issue. The receiving facility would also need to make substantial adjustments to receive these large waste volumes. These factors indicate that the other capacity is not reasonably available for short-term waste management. EPA has relied on similar criteria in providing nationwide variances under RCRA section 3004(h)(2). See 55 FR 22520.

5. Response to Comments

Several comments were received by the Agency concerning the proposed case-by-case extensions.

Comments and Responses

Comment: EPA should grant an extension as soon as the Agency decides that it will propose approval of a no migration petition.

Response: The Agency has stated both in the preamble to the Third Third final rule, June 1, 1990, (55 FR 22520) and in the July 5, 1990 proposal to grant a case-by-case extension to a facility (55 FR 27659), that a proposed no migration petition would serve as the indicia that the applicants are committed to provide protective disposal capacity. A proposal indicates that EPA has formally reviewed the no migration petition and found the application to be promising for final approval. The tentative finding is made upon signature by the Agency. Once a no migration petition is proposed, and all other conditions for the case-by-case extension application are met, the Agency will grant final approval for the case-by-case extension as expeditiously as possible.

Comment: EPA should grant the extention for one-full year.

Response: The statutory language in RCRA section 3004(h)(3) does not provide for specific guidance regarding the time period the Agency may grant, other than allowing the Agency to grant at a maximum a one-year case-by-case extension renewable for a maximum of one additional year. In this regard, the Agency can grant these extensions for a time period that it perceives is justifiable for a given circumstance. The facilities seeking case-by-case extensions have provided information relating to the logistical difficulties they would encounter if they need to seek alternative treatment capacity. The Agency believes that this information is adequate to allow a granting of up to a six-month extension. EPA agrees that a

six-month period is preferable to the 3-month period because of the potential delays in expected final decision making. The Agency believes that this is enough time for further review, public hearing, public comment, preparation of the final decision, and the publication of a final decision to either grant or deny a no migration petition. The Agency will act as expeditiously as possible to finalize the proposed actions, and expects this action to be finished within a six-month time-frame. Should this not occur, the Agency may, upon request of the petitioner, consider extending the case-by-case petition for an additional year.

If a petition is denied, the basis for the case-by-case extension is no longer present. A new basis, such as contractual commitment to obtain alternative treatment capacity, must be provided in order for the Agency to consider any further extension under 40 CFR 268.5. Such a showing could include a contract contingent on the Agency's denial of a no migration petition. Today's applicants have shown no such commitment.

Comment: EPA should grant a one-year extension that would terminate only upon final, unconditional approval of its no migration petition.

Response: The Agency has previously stated that once a no migration petition is granted, conditionally or otherwise, the determination has been made that this exemption represents protective disposal capacity. Since the underlying need for the case-by-case extension is no longer present, the case-by-case extension will automatically terminate. See 55 FR 22674. EPA disagrees, however, that it should provide a full year to address logistic problems following a denial of a no migration petition.

Comment: There is no basis for making the exemption conditional upon no violations of RCRA.

Response: The Agency originally proposed termination of the case-by-case extension upon violation by the facility of *any* law or regulations implemented by EPA. EPA believes that it has authority for such a condition.

Upon reconsideration, the Agency agrees with the commenter that minor paper violations should not necessarily result in termination of the case-by-case extension. The Agency will only consider termination of the case-by-case extension if the petitioner fails to make a good faith effort to meet the schedule for completion, the Agency revokes any required permit, or if conditions in the application change. The Agency will rely on its enforcement authority to remedy any violations of RCRA or EPA regulations.

III. Petition(s)

A. Facility Summary

American Cyanamid Company, Westwego, Louisiana, Celanese Engineering Resins, Inc., Bishop, Texas, and E. I. du Pont de Nemours & Co., Inc., Orange, Texas have petitioned EPA to grant them a twelve month extension of the effective date of the hazardous waste injection restrictions applicable to the following wastes: California listed wastes, solvents less than one (1) percent solvent constituents, and First Third wastes.

EPA is granting an extension of the effective date of the applicable restrictions for six months from the hazardous waste injection restrictions effective date of August 8, 1990, for the above referenced wastes, for American Cyanamid and Celanese—Bishop. American Cyanamid's and Celanese—Bishop's requests and supporting documentation are available in the public docket for this notice. EPA is taking no action on Du Pont—Orange's request for a case-by-case extension because du Pont has not yet demonstrated that the no migration standard can be met.

B. Description of Petitioning Facility

American Cyanamid Company is a chemical manufacturing company which operates five hazardous waste injection wells in Westwego, Louisiana.

Celanese Engineering Resins, Inc. is a chemical manufacturing company which operates three hazardous waste injection wells in Bishop, Texas.

E. I. du Pont de Nemours & Co. Inc. is a chemical manufacturing company which operates six hazardous waste injection wells in Orange, Texas.

C. Case-by-Case Extension Petition Demonstrations

American Cyanamid Company's application for an extension of the effective date includes the following demonstrations:

40 CFR 268.5(a)(1) American Cyanamid has made a good-faith effort on a nationwide basis to locate and contract for adequate alternative treatment, recovery, or disposal capacity, or to establish such capacity by the effective data of the applicable restrictions.

40 CFR 268.5(a)(2) American Cyanamid has entered into a binding contractual commitment to provide alternative treatment, recovery, or disposal capacity.

40 CFR 268.5(a)(3) American Cyanamid has shown that lack of alternative capacity is beyond its control.

40 CFR 268.5(a)(4) American Cyanamid has shown that there will be adequate alternative treatment, recovery, or disposal capacity for all the waste after the effective date established by the extension.

40 CFR 268.5(a)(5) American Cyanamid has provided a detailed schedule for obtaining alternative capacity, including dates.

40 CFR 268.5(a)(6) American Cyanamid has arranged for adequate capacity to manage the waste during the extension period.

40 CFR 268.5(a)(7) No surface impoundments or landfills will be used by American Cyanamid to manage the waste during the extension period.

Celanese Engineering Resins, Inc.'s application for an extension of the effective date includes the following demonstrations:

40 CFR 268.5(a)(1) Celanese—Bishop has made a good-faith effort on a nationwide basis to locate and contract for adequate alternative treatment, recovery, or disposal capacity, or to establish such capacity by the effective data of the applicable restrictions.

40 CFR 268.5(a)(2) Celanese—Bishop has entered into a binding contractual commitment to provide alternative treatment, recovery, or disposal capacity.

40 CFR 268.5(a)(3) Celanese—Bishop has shown that lack of alternative capacity is beyond its control.

40 CFR 268.5(a)(4) Celanese—Bishop has shown that there will be adequate alternative treatment, recovery, or disposal capacity for all the waste after the effective date established by the extension.

40 CFR 268.5(a)(5) Celanese—Bishop has provided a detailed schedule for obtaining alternative capacity, including dates.

40 CFR 268.5(a)(6) Celanese—Bishop has arranged for adequate capacity to manage the waste during the extension period.

40 CFR 268.5(a)(7) The surface impoundments or landfills used by Celanese—Bishop to manage the waste during the extension period will meet the requirements of 40 CFR 268.6(h)(2).

III. Agency Action

For the reasons discussed above, the Agency believes that American Cyanamid's and Celanese—Bishop's

demonstrations have satisfied all the requirements for a case-by-case extension of the August 8, 1990, effective date of the hazardous waste injection restrictions.

Therefore, EPA is granting an extension of the August 8, 1990, effective date of the restrictions on these wastes for American Cyanamid and Celanese—Bishop. These wastes could be injected over a six month period, starting from the effective date of August 8, 1990, *or* until a final decision of the applicant's no migration petition is made, but not later than February 8, 1990, (unless an additional extension is granted). If that decision approves the no migration variance, then the case-by-case extension will expire. If EPA denies the no migration variance, then the case-by-case extension will only be effective while the operator takes all steps necessary to move his waste to other available capacity according to the schedules in the administrative record.

American Cyanamid and Celanese—Bishop must each submit a progress report two months after the effective date of the extension is granted, addressing the progress being made to obtain alternative disposal capacity. The Agency must be notified of any change in the conditions specified in the petition. The extension would remain in effect unless American Cyanamid or Celanese—Bishop fail to make a good faith effort to meet the schedule for completion, the Agency denies or revokes any required permit, or if conditions certified in the application change.

(Sections 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6924]).

Dated: September 20, 1990.

Myron O. Knudson,

P.E., Director, Water Management Division (6W), EPA Region 6.

[FR Doc. 90– 22892 Filed 10–1–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL. 3848–6]

Executive Committee, Open Meeting

October 23–24, 1990

Under Public Law 92–463, notice is hereby given that the Executive Committee of the Science Advisory Board will hold a public meeting on October 23 from 8:30 a.m. to 5 p.m. and October 24 from 8:30 a.m. to 12 noon. The meeting will be held at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, Administrator's Conference Room 1103 West Tower.

The Executive Committee will review reports from the Standing Committees of the Science Advisory Board. The Environmental Engineering Committee will submit the Municipal Solid Waste Research Review; The Environmental Processes and Effects Committee will submit two reviews: the Evaluation of the Ecoregion Concept and the Evaluation of the EMAP Ecological Indicators; the Indoor Air Quality/Total Human Exposure Committee will submit the Human Exposure Research Strategies Review and the Review of the Report to Congress on Agency's Action on its Indoor Air Quality Implementation Plan; and the Subcommittee's review on the Forest Effects Research Review.

At the meeting there will be a briefing from the Risk Assessment Council on developments in risk characterization. There will also be a discussion of recent issues raised on Risk Assessment in various forums; e.g., Science Magazine and Office of Management and Budget's Regulatory Program of the U.S. Government. A progress report will be made on the implementation of the Management and Organization and Mission and Functioning Committee reports, both on the SAB staff and the equipment. There will be a summary video of recent public hearings on an Ecological Research Institute.

The SAB has been requested, by the Agency, to review numerous topics to FY 91. At this meeting the Executive Committee will discuss which reviews will be conducted during FY 91.

The meeting is open to the public. Any member of the public wishing to attend or submit written comments should notify Joanna Foellmer or Dr. Donald G. Barnes, Staff Director, Science Advisory Board, at 202–382–4126, one week prior to the meeting date.

Dated: September 25, 1990.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 90–23182 Filed 10–1–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3848–3]

Administrative Order on Consent; Ninth Avenue Dump Site, IN

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: In accordance with the requirements of section 122(i)(1) of the Comprehensive Response, Compensation and Liability Act, as amended (CERCLA), notice is hereby given of a proposed Administrative Order on Consent under section 122(g) concerning the Ninth Avenue Dump site in Gary, Indiana. The proposed Consent Order requires eighty-five (85) *de minimis* potentially responsible parties (PRPs) to pay a total of approximately $6,500,000 to reimburse the United States a portion of its past costs and to contribute to the estimated costs of implementing the remedial actions selected for the Ninth Avenue Dump site, including oversight costs.

DATES: Comments must be received on or before November 1, 1990.

ADDRESSES: Comments should be addressed to the U.S. EPA Office of Regional Counsel, 230 South Dearborn Street, 5CS–TUB–3, Chicago, Illinois, and should refer to the Ninth Avenue Dump site.

FOR FURTHER INFORMATION CONTACT: Mary E. Butler, Office of Regional Counsel, U.S. EPA, Region V, 230 South Dearborn Street, 5CS–TUB–3, Chicago, Illinois 60604, (312) 353–8514.

SUPPLEMENTARY INFORMATION: Notice of section 122(g). *de minimis* settlement Consent Order: In accordance with section 122(i)(1) of CERCLA, notice is hereby given that on or about November 11, 1989, a proposed *de minimis* settlement was agreed to by eight-five (85) potentially responsible parties (PRPs). The proposed Consent Order concerns the hazardous waste site known as the Ninth Avenue Dump, located in Gary, Indiana. The proposed Consent Order requires those PRPs named as *de minimis* respondents to the Order to pay approximately $6,500,000. A portion of this sum will be paid to the United States as reimbursement for past costs, estimated oversight costs and as a penalty against *de minimis* respondents who failed to comply with the Unilateral Administrative Order issued on December 7, 1988. A portion of the total will also be paid to reimburse the Secretary of the Interior for estimated natural resource damage and a portion will be placed into escrow accounts. The majority of the monies placed into the escrow accounts will be used to reimburse non-participants to the Consent Order who implement the selected remedies; however, a portion of those monies may be used to reimburse U.S. EPA for any additional work necessary at the site.

U.S. EPA entered into this agreement under the authority of section 122(g) of CERCLA. Section 122(g) authorizes settlement of claims under section 106 or 107 of CERCLA if such settlement involves only a minor portion of the

response costs and the amount and toxicity of the settling parties' contribution at the site is minimal. Where total response costs incurred by the United States for the site exceed $500,000 (excluding interest), the Attorney General of the United States must issue prior written approval of the order. In this case the U.S. EPA determined that the eighty-five (85) parties to the Consent Order satisfied the statutory requirements for participation in a settlement under section 122(g) of CERCLA. U.S. EPA also determined that response costs incurred thus far at the site exceed $500,000 and accordingly the Attorney General has approved this settlement.

Under the terms of the settlement, the eighty-five (85) settling PRPs will pay the full amount required under the Consent Order within thirty (30) days of the effective date of the Consent Order. In return, the U.S. EPA covenants not to sue these PRPs for those costs.

U.S. EPA will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Order.

A copy of the proposed Consent Order may be obtained in person or by mail from the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 5CS–TUB–3, 230 South Dearborn Street, Chicago, Illinois 60604.

Authority The Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. Sections 9601–9675.

Dated: August 17, 1990.

Ralph R. Bauer,

Acting, Regional Administrator.

[FR Doc. 90–23183 Filed 10–1–90; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–42030G; FRL 3802–4]

Testing Consent Agreement Development for Mesityl Oxide; Solicitation for Interested Parties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's procedures for requiring the testing of chemical substances and mixtures under section 4 of the Toxic Substances Control Act (TSCA) include the adoption of enforceable consent agreements (ECAs) and the promulgation of test rules. ECAs may be adopted where consensus on an industry test program is reached in a timely manner by EPA, affected manufacturers and/or processors, and other interested parties. If timely consensus cannot be reached or appears unlikely, and the Agency makes certain statutory findings under TSCA, then EPA would issue a test rule. This notice serves three purposes under these procedures. First it requests "interested persons" who wish to participate in testing negotiations for mesityl oxide (MO; CAS. No. 141–79–7) to identify themselves to EPA. Second, it announces a public meeting to initiate testing negotiations for this chemical. Third, it proposes a target schedule for implementation of the consent agreement process.

DATES: Submit written notice of interest to be designated an interested party on or before October 18, 1990. A public meeting will be held on October 18, 1990. Persons interested in attending the public meeting should notify EPA by calling Mary Louise Hewlett, (202) 475–8162, before October 18, 1990.

ADDRESSES: Submit written request to be an "interested party" in triplicate, identified by the document control number (OPTS–42030G) to: TSCA Public Docket Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Rm. E–543B, 401 M St., SW., Washington, DC 20460. (202) 554–1404 TDD (202) 554–0551

SUPPLEMENTARY INFORMATION: EPA has amended the procedural regulations in 40 CFR part 790 (51 FR 23706; June 30, 1986), which govern the development and implementation of testing requirements under section 4 of TSCA. These amendments establish procedures for using ECAs to develop testing requirements under section 4 of the Act.

I. Identification of Interested Parties

Under 40 CFR 790.22, the testing negotiation procedures are initiated by the publication of a **Federal Register** notice which invites persons interested in participating in or monitoring negotiations for the development of an ECA to notify the Agency in writing. Those individuals and groups who respond to EPA's notice by the deadline established in this notice will have the status of "interested parties" and will be afforded opportunities to participate in the negotiation process. These "interested parties" will not incur any obligations by being designated "interested parties". The procedures for these negotiations are described in 40 CFR 790.22. Individuals and groups desiring to have the status of "interested parties" in the development of the ECA for MO should submit a written request to the Agency at the address given above on or before October 18, 1990.

II. Public Meeting

A public meeting will be held at 2:00 on October 18, 1990, in Rm. 103, Northeast Mall, EPA Headquarters, 401 M St., SW., Washington, DC 20460, to announce EPA's preliminary testing determination for health effects testing of MO to initiate testing negotiations. Persons interested in attending this meeting should notify Mary Louise Hewlett, (202) 475–8162, by telephone before October 18, 1990.

III. Timetable for Negotiating Test Agreement

In accordance with the procedures for the development of ECAs established in 40 CFR 790.22 and the Agency's plans to re-propose a test rule for MO (if an ECA cannot be developed in that time) the following target schedule is established for MO.

October 18, 1990—Public Meeting to initiate testing negotiations. Also, deadline for notice of "interested party" designation.

December 28, 1990—Decision by EPA on whether to use consent order or test rule.

January 25, 1991—Draft consent order sent to interested parties (if EPA decides to use consent order).

May 3, 1991—Issuance of consent order.

Authority: 15 U.S.C. 2603

Dated: September 20, 1990.

James B. Willis,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 90–23240 Filed 10–2–90; 8:45 am]

BILLING CODE 6560–50–F

[OPTS–59286B; FRL 3803–7]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as

TME–90–16. The test marketing conditions are described below.

EFFECTIVE DATES: September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Rick Keigwin, New Chemicals Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M St. SW., Washington, DC 20460, (202) 382–2440.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–90–16. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. The test marketing period, production volume, use, disposal methods, and number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–90–16. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–90–16

Date of Receipt: July 24, 1990.

Notice of Receipt: August 6, 1990 (55 FR 31882).

Applicant: Confidential.

Chemical: (G) Bis(hexamethylene)tris-demethiocarbamic acid.

Use: (G) Sulfur solvent for natural gas production. *Production Volume:* (Confidential). *Number of Customers:* (Confidential).

Test Marketing Period: (Confidential).

Risk Assessment: EPA identified concerns for developmental toxicity, neurotoxicity and thyroid toxicity, based on test data on analogous chemicals; and chronic toxicity to the liver and lungs, based on test data on the TME substance. The submitted test data also showed that the TME substance is corrosive to the skin and eyes. Because of these corrosive properties, EPA expects that workers will wear the protective equipment specified in the Material Safety Data Sheet ("MSDS") submitted with the TME application. EPA does not expect the manufacturing, processing, and use of the TME substance to result in inhalation exposures to workers. Therefore, the corrosive nature of the TME substance, low predicted inhalation exposures, and the exposure controls specified in the MSDS mitigate EPA's concerns for human health.

EPA also identified environmental concerns for the TME substance based on Quantitative Structural Activity Relationships ("QSARs") derived from test data on structurally similar dithiocarbamates. EPA expects toxicity to aquatic organisms to occur at a concentration of 9 parts-per-billion ("ppb") TME substance in surface waters. However, EPA expects that the TME substance will be deep-well injected and will not be released to surface water. This use/disposal method will not result in surface water concentrations that exceed EPA's concern concentration.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: September 24, 1990.

Lawrence E. Culleen,

Acting Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 90–23241 Filed 10–1–90; 8:45 am]

BILLING CODE 6560–50–F

[FRL–3848–5]

National Pollutant Discharge Elimination System (NPDES) General Permit for Activities Related to Natural Gas Production Within the Geographical Boundaries of Southern Ute Indian Reservation as Located Within the Political Boundaries of the State of Colorado

AGENCY: U.S. Environmental Protection Agency (EPA), Region VIII.

ACTION: Notice of intent to issue general permit.

SUMMARY: Region VIII of the U.S. Environmental Protection Agency (EPA) is hereby giving notice of its tentative determination to issue a National Pollutant Discharge Elimination System (NPDES) general permit for certain limited activities relating to the production of natural gas within the geographical boundaries of the southern Ute Indian Reservation, located in the southwest portion of the State of Colorado, NPDES permit Number COG–075000. Issuance of the General Permit is intended to provide a more efficient means of granting discharge authorization for these facilities. A draft general permit which incorporates the requirements of the Federal Clean Water Act and the NPDES regulations promulgated thereunder at 40 CFR part 122 *et seq.* has been prepared by EPA. The draft permit establishes proposed effluent requirements and standards based on technology and water quality considerations, prohibitions, best Management practices, and other conditions applicable to the types of waste waters generated by construction facilities. Persons meeting the prequalification requirements of the general permit and seeking discharge authorization will be required to submit a Notice of Intent (NOI) to discharge and a request for discharge approval prior to their commencement of any discharge.

DATES: Public comments on this proposal must be on or before November 19, 1990.

ADDRESSES: Public comments should be sent to: Mr. Steve A. Burkett, P.E. (8WM–C), Chief, Compliance Branch, Water Management Division, U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202–2405.

For a copy of the complete text of the draft permit and the Statement of Basis and Fact Sheet, please call or write Ms. Daniela Thigpen at the above-listed address or telephone (303) 293–1432 or FTS 330–1432. Questions regarding the

specific requirements proposed by the draft general permit may be directed to Mr. Robert D. Shankland, telephone (303) 293–1597.

A public meeting to review and entertain comments on the draft permit has tentatively been scheduled as follows:

Date: November 7, 1990.

Time: 7 p.m.

Location: La Plata County Fairgrounds, Extension Building, 2500 Main Street, Durango, Colorado 81301.

SUPPLEMENTARY INFORMATION:

A. Regulatory Background

Section 301(a) of the Clean Water Act (CWA) provides that the discharge of pollutants is unlawful except in accordance with an NPDES permit. Discharges that occur within Indian Country are the jurisdiction of the EPA unless the Agency enters into an agreement with a Tribe or other Indian political body authorizing the Tribe to regulate these discharges in lieu of EPA doing so. No Tribal body has such jurisdiction within the Southern Ute Indian Reservation. Under EPA's regulations at 40 CFR 122.28, EPA may issue a single general permit to point sources within the same geographic area if the regulated sources:

(1) Are involved in the same or substantially similar operations;

(2) Generate and discharge the same types of waste;

(3) Require the same permit effluent limitations and/or operating conditions;

(4) Require similar monitoring requirements; and,

(5) In the opinion of the NPDES Director, are more appropriately controlled under a general permit than an individual permit.

As in the case of any individual permit issued under the NPDES program, violation of any condition of a general permit constitutes a violation of the Clean Water Act and is fully enforceable under section 309 of the Act.

Any owner or operator authorized by the general permit may be excluded from the general permit by applying for an individual permit as provided for by 40 CFR 122.28(b).

B. Coal Bed Methane Production

The production of methane gas by coal-bed degasification within the Southern Ute Indian Reservation is from coal beds located within the Fruitland Formation. Those coal beds contain water, so the degasification process results in the mixture of methane gas and water being brought to the ground surface via wells. The water is separated from the gas at the ground surface. Currently, the produced water is not being returned to the coal beds because the return of the water might interfere with gas production. To date, most of the produced water has been disposed of by injecting it underground into another formation in accordance with the requirements of the Underground Injection Control (UIC) permit program of the Federal Safe Drinking Water Act. However, in some situations this has proven to be very expensive.

Although treatment of the produced water by technologies such as reverse osmosis to reduce salinity in the water to acceptable levels is expensive, it may still be more cost effective to treat and discharge than to continue to re-inject the produced water. In addition, it is unknown how much of the produced water can actually be re-injected into the formation without encountering some problems like plugging in the formation. Should such a problem arise, treatment and discharge of the produced water will become appealing as an alternative.

There presently are approximately 700 of these methane gas wells located on the Reservation. The Energy Resources Division of the Southern Ute Tribe has estimated that approximately 500 million barrels (21 billion gallons) of water could be produced over the next ten years unless there are changes in the gas production technology that will reduce the volume of produced water. It is unknown how much of this water may actually ever be discharged.

In the primary pollutant of concern for the produced water is total dissolved solids (TDS), a measure of the salinity of the water. TDS concentrations in the untreated produced water, mostly sodium bicarbonate, have ranged from less than 1,000 mg/L to more than 10,000 mg/L. Analysis of untreated water has indicated that most wells have only trace amounts of organic pollutants in the produced water. Best Available Treatment (BAT) for reducing TDS suggests that, after treatment, TDS discharges should not exceed 500 mg/L.

Development of the well fields has created a need for pipeline delivery systems. Construction of these pipelines sometimes involve excavations (e.g., trenching) which may fill with water from the resident groundwater or from surface runoff. Another dewatering activity is to temporarily lower the water table around the construction site so as to prevent groundwater from flowing into the excavation. Although dewatering of such excavations is commonly done, it is unlawful to do so without an NPDES permit authorization.

Construction dewatering discharges under the general permit are generally anticipated to be from areas of natural and homogenous materials. Construction excavations associated with existing landfills, hazardous waste disposal sites or the cleanup of contaminated groundwater are entirely outside the scope of this permit or, for that matter, the general permit process.

Once pipelines and containment vessels are constructed, it may be necessary to test these vessels for leakage and stress prior to placing them into final service regardless of the material to be contained in the vessel or pipeline. Water is generally used to "hydrostatically" test the system and secure against its failure while in service.

Locally available water of relatively high quality is normally used for hydrostatic testing. If a surface water source is used and the water is returned to the same source, essentially no additional pollutants should be introduced to the environment. However, if a groundwater source is used, the same considerations given for produced water from coal-bed gas production apply to these sources. If chlorinated municipal water is used, chlorine becomes of major concern.

Originally, EPA considered including sand and gravel production activities within the context of the general permit. Excavation of sand and gravel construction materials needed for the gas production activities will likely occur in the area. Based on a reevaluation of our information and on comments by the State of New Mexico on a preliminary draft of the general permit, sand and gravel operations will not be included under this general permit. Although TDS contributions from sand and gravel operations were anticipated to be minimal, quantifying the TDS contribution from such sources could not be made. Further, sand and gravel operations can often be operated as "no discharge" facilities. In the event that a discharge from a sand and gravel operation is necessary and appropriate, a facility may apply for an individual permit discharge authorization.

EPA has sought preliminary input on the requirements of the general permit from a variety of Federal Agencies, the State of Colorado, the State of New Mexico, the Colorado River Salinity Forum, the Southern Ute Indian Tribe, interested citizens groups, and industry representatives. The draft general permit incorporates many of the comments received from these parties as well as attempts to respond to concerns that were raised.

C. Coverage Under the Permit

Inclusion of each of the above activities under a single NPDES General Permit restricted to the geographical confines of the Southern Ute Indian Reservation appears to be a sensible approach to effective environmental regulation. The general permit provides the Agency with a vehicle to review the proposed discharges on a collective basis rather than on an individual case-by-case basis. As such, the Agency can more effectively use its limited resources to evaluate any cumulative impacts from the potential coal-bed discharges. By their nature, general permits are written to promote "environmentally conservative" requirements which push the application of state-of-the-art technology upon potential discharges. General permits do not allow for variances for facilities seeking less stringent requirements.

Facilities seeking authorization to discharge under the general permit are obligated to submit information demonstrating their ability to comply with the general permit.

D. Economic Impact

EPA has reviewed the effect of Executive Order 12291 on this proposed general permit and has determined the proposal not to be major under that Order. This proposal is subject to review by the Office of Management and Budget (OMB) as required by the Executive Order. Any comments from OMB to EPA and any EPA responses to those comments will be made available for public inspection at the U.S. Environmental Protection Agency, Compliance Branch, Water Management Division, Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202-2405.

E. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these draft general NPDES permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of these permits have already been approved by the Office of Management and Budget under submissions made for the Clean Water Act's NPDES permit program.

F. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. Moreover, the permit reduces the administrative burden on regulated sources.

James J. Scherer,

Regional Administrator, Region VIII.

[FR Doc. 90-23184 Filed 10-1-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL LABOR RELATIONS AUTHORITY

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Federal Labor Relations Authority (FLRA).

ACTION: Advance notice with request for comments; publication of proposed system notice for a new system of records.

SUMMARY: The FLRA is establishing a new system of records under the Privacy Act to consist of the investigatory files of the FLRA's Office of the Inspector General (OIG). The publication of this proposed system notice is one of the steps required to establish the new system. The new system of records facilitates the OIG's ability to collect, maintain, use, and disclose information pertaining to individuals, thus helping to ensure that the OIG may efficiently and effectively perform its investigations and other authorized duties and activities.

DATES: Comments must be received on or before November 1, 1990. Unless changes are made in response to comments received from the public, this action is effective upon final publication of the amendment the FLRA's Privacy Act regulations, 5 CFR part 2412, set forth in proposed form elsewhere in today's issue of the **Federal Register**.

ADDRESSES: Forward comments to the Office of the Solicitor, Federal Labor Relations Authority, 500 C Street, SW., Washington, DC 20424.

FOR FURTHER INFORMATION CONTACT: Paul D. Miller, Inspector General, FLRA, 500 C Street, SW., Washington, DC 20424, (202) 382-6002.

SUPPLEMENTARY INFORMATION: As required by U.S.C. 552a(e)(4) and (11), the FLRA is notifying the public of the establishment of a new system of records in the FLRA's Office of the Inspector General (OIG). This system is being established as part of the formal creation of an OIG within the FLRA by action dated March 24, 1989, and the appointment of the FLRA's Inspector General on September 25, 1989, under the authority of the 1988 amendments to the Inspector General Act of 1978. *See* Public Law No. 100-504, amending Public Law No. 95-452; 5 U.S.C. app. at 1184 (1988). Among the OIG's statutory duties are the prevention and detection of fraud, waste, and abuse relating to the agency's programs and operations, through the conduct of audits and investigations and the preparation of reports to the agency's Chairman and to Congress.

The system of records being established consists of investigatory files compiled and maintained by the OIG. Due to the law enforcement nature of these records, the proposed system is exempt from certain provisions of the Privacy Act, including disclosure to individuals who are subjects of records in system. *See* 5 U.S.C. 552a(j)(2) and (k)(2). The exempt status of the system is the subject of a companion notice of proposed rulemaking to amend the FLRA's Privacy Act regulations, 5 CFR part 2412. That notice is published elsewhere in today's issue of the **Federal Register**. Pursuant to 5 U.S.C. 552a(r) and OMB Circular No. A-130, the FLRA has submitted its report on the proposed establishment of this system of records to both Houses of Congress and to OMB.

Accordingly, the FLRA proposes to establish the following system of records:

FLRA/OIG-1

SYSTEM NAME:

FLRA/OIG-1—Office of the Inspector General Investigative Files.

SECURITY CLASSIFICATION: NOT APPLICABLE

SYSTEM LOCATION:

Office of the Inspector General, Federal Labor Relations Authority, 500 C Street, SW., Washington, DC 20424.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of OIG investigations relating to the programs and operations of the Federal Labor Relations Authority. Subject individuals include, but are not limited to, current and former employees; contractors, subcontractors, their agents or employees; and others whose actions affect the FLRA, its programs and operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence relating to the investigation; internal staff memoranda; copies of subpoenas issued during the investigation, affidavits, statements from witnesses, transcripts of testimony taken in the investigation and accompanying exhibits; documents, records, or copies obtained during the investigation; interview notes, investigative notes, staff working papers, draft materials, and other

documents and records relating to the investigation; opening reports, progress reports, and closing reports; and other investigatory information or data relating to alleged or suspected criminal, civil, or administrative violations or similar wrongdoing by subject individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, Pub. L. No. 95–452, as amended by the Inspector General Act Amendments of 1988, Pub. L. No. 100–504, 5 U.S.C. app. at 1184 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosure generally permitted under 5 U.S.C. 552a(b), these records or information in these records may specifically be disclosed pursuant to 5 U.S.C. 552a(b)(3) as follows, provided that no routine use specified herein shall be construed to limit or waive any other routine use specified herein.

(1) To other agencies, offices, establishments, and authorities, whether federal, state, local, foreign, or self-regulatory (including, but not limited to, organizations such as professional associations or licensing boards), authorized or with the responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information,

(a) Indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, or

(b) Indicates a violation or potential violation of a professional, licensing, or similar regulation, rule or order, or otherwise reflects on the qualifications or fitness of an individual licensed or seeking to be licensed;

(2) To any source, private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of a legitimate investigation or audit of the OIG;

(3) To agencies, offices, or establishments of the executive, legislative, or judicial branches of federal, state, or local government;

(a) Where such agency, office, or establishment has an interest in the individual for employment purposes, including a security clearance or determination as to access to classified information or restricted areas, and needs to evaluate the individual's qualifications, suitability, and loyalty to the United States Government, or

(b) Where such agency, office, or establishment conducts an investigation of the individual for purposes of granting a security clearance, or for making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas, or

(c) Where the records or information in those records are relevant and necessary to a decision with regard to the hiring or retention of an employee or disciplinary or other administrative action concerning an employee, or

(d) Where disclosure is requested in connection with the award of a contract or other determination relating to a government procurement, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter, including, but not limited to, disclosure to any Federal agency responsible for considering suspension or debarment actions where such record would be germane to a determination of the propriety or necessity of such action, or disclosure to the United States General Accounting Office, the General Services Administration Board of Contract Appeals, or any other Federal contract board of appeals in cases relating to an agency procurement;

(4) To the Office of Personnel Management, the Office of Government Ethics, the Merit Systems Protection Board, the Office of the Special Counsel, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority or its General Counsel, of records or portions thereof relevant and necessary to carrying out their authorized functions, such as, but not limited to, rendering advice requested by the OIG, investigations of alleged or prohibited personnel practices (including unfair labor or discriminatory practices), appeals before official agencies, offices, panels, boards, or courts, and authorized studies or reviews of civil service or merit systems or affirmative action programs;

(5) To independent auditors or other private firms with which the Office of Inspector General has contracted to carry out an independent audit or investigation, or to analyze, collate, aggregate or otherwise refine data collected in the system of records, subject to the requirement that such contractors shall maintain Privacy Act safeguards with respect to such records;

(6) To the Department of Justice or the Office of the Solicitor of the Federal Labor Relations Authority and for disclosure by such parties,

(a) To the extent relevant and necessary in connection with litigation in proceedings before a court or other adjudicative body, where the government is a party to or has an interest in the litigation, and the litigation is likely to affect the agency or any component thereof, including where the agency, or an agency component, or an agency official or employee in his or her official capacity, or an individual agency official or employee whom the Department of Justice has agreed to represent, is a defendant, or

(b) For purposes of obtaining advice concerning the accessibility of a record or information under the Privacy Act or the Freedom of Information Act;

(7) To the National Archives and Records Administration for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906;

(8) To a congressional office from the record of a subject individual in response to an inquiry from the congressional office made at the request of that individual, but only to the extent that the record would be legally accessible to that individual;

(9) To any direct recipient of federal funds, such as a contractor, where such record reflects serious inadequacies with a recipient's personnel and disclosure of the record is for purposes of permitting a recipient to take corrective action beneficial to the government;

(10) To debt collection contractors for the purpose of collecting debts owed to the government as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718; or

(11) To a grand jury agent pursuant either to a federal or state grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

The OIG Investigative File consist of paper records maintained in file folders and data maintained on computer diskettes. The folders and diskettes are stored in file cabinets in the OIG.

RETRIEVABILITY:

The records are retrieved by the name of the subject of the investigation or by

a unique control number assigned to each investigation.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets in lockable rooms. Access is restricted to individuals whose duties require access to the records. File cabinets and rooms are locked during non-duty hours.

RETENTION AND DISPOSAL:

The OIG Investigative Files are kept indefinitely.

SYSTEM MANAGER AND ADDRESS:

Inspector General, Federal Labor Relations Authority, 500 C Street, SW., Washington, DC 20424

NOTIFICATION PROCEDURE:

By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Solicitor, Federal Labor Relations Authority, 500 C Street, SW., Washington, DC 20424

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Employees or other individuals on whom the record is maintained, non-target witnesses, FLRA and non-FLRA records, to the extent necessary to carry out OIG investigations authorized by the Inspector General Act of 1978, as amended, 5 U.S.C. app. at 1184 (1988).

SYSTEM(S) EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

Pursuant to 5 U.S.C. 552a(j)(2), records in this system are exempt from the provisions of 5 U.S.C. 552a, except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i), to the extent the system of records relates in any way to the enforcement of criminal laws.

Pursuant to 5 U.S.C. 552a(k)(2), the system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f), to the extent the system of records consists of investigatory material compiled for law enforcement purposes, other than material within the scope of the exemption at 5 U.S.C. 552a(j)(2). These exemptions are set forth in the Authority's Privacy Act regulations, 5 CFR part 2412, as amended; see 5 CFR 2412.16.

Dated: September 26, 1990.

Solly Thomas,

Executive Director.

[FR Doc. 90-23236 Filed 10-1-90; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200420.

Title: City of Los Angeles/Nippon Yusen Kaisha Terminal Agreement.

Parties: City of Los Angeles (City), Nippon Yusen Kaisha (NYK).

Synopsis: The Agreement provides for the non-exclusive preferential assignment of Berths 211-215 and approximately 100.11 acres, as well as the construction of improvements, to be used for the docking/mooring of vessels and the handling, loading and unloading of cargo. The Agreement provides for certain minimum annual guarantees to commence upon completion of the construction of the terminal facility and provides for revenue sharing of tariff charges for dockage and wharfage. NYK agrees to move all of its Southern California container cargo through the Port of Los Angeles and also provides the City a two million revenue ton per year O.C.P. guarantee. In the first year of operation, NYK is entitled to an adjustable compensation credit of $3,500,000 in consideration of, among other things, NYK providing four gantry cranes at the premises. The Agreement's term expires 25 years after the terminal delivery date (expected to be August 20, 1991), but may be renewed for an additional 10 years.

Agreement No.: 224-200158-001.

Title: Port of Portland/Evergreen Marine Corporation (Taiwan) Ltd. Terminal Agreement.

Parties: Port of Portland (Port); Evergreen Marine Corporation (Taiwan) Ltd. (Evergreen).

Synopsis: The Agreement amends the parties' basic agreement to provide for: (1) Evergreen to extend its terminal use agreement with the Port of one year; and (2) the per-container rate to increase by 2.5 percent effective October 1, 1990.

By Order of the Federal Maritime Commission.

Dated: September 26, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-23185 Filed 10-1-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

September 26, 1990.

Background

Notice is hereby given of the submission of proposed information collection to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (title 44 U.S.C. chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR part 1320). A copy of the proposed information collection and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Frederick Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340)

Request for OMB Approval To Extend Without Revision

Report title: Country Exposure Report for U.S. Branches and Agencies of Foreign Banks.

Agency form number: FFIEC 019.

OMB docket number: 7100-0213.

Frequency: Quarterly.

Reporters: U.S. branches and agencies of foreign banks.

Annual reporting hours: 14,400.

Estimated average hours per response: 12 hours.

Estimated number of respondents: 300. Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 3105, 3108 for the Board of Governors of the Federal Reserve System; sections 7 and 10 of the Federal Deposit Insurance Act (12 U.S.C. 1817, 1820) for the Federal Deposit Insurance Corporation; and the National Bank Act (12 U.S.C. 161) for the Office of the Comptroller of the Currency) and is given confidential treatment (5 U.S.C. 552(b)(8)).

All individual U.S. branches and agencies of foreign banks that have more than $30 million in direct claims on residents of foreign countries must file the FFIEC 019 report quarterly. The data collected are used to monitor the extent to which such branches and agencies are pursuing prudent country risk diversification policies and limiting potential liquidity pressures.

Board of Governors of the Federal Reserve System, September 26, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-23209 Filed 10-1-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Public Meeting on Clinical Practice Guidelines for Urinary Incontinence in the Adult

A public meeting is being held on clinical practice guidelines for Urinary Incontinence in the Adult. The guidelines are under development by a panel of expert and health care consumers, arranged for by the Agency for Health Care Policy and Research. A Notice announcing the development of the clinical practice guidelines and inviting written comments was published in the **Federal Register** on August 28 (55 FR 35185).

The meeting to address guidelines for Urinary Incontinence in the Adult will be held on October 16, as follows: October 16, 1990, Ritz-Carlton Hotel, 8 a.m. to Noon, 2100 Massachusetts Avenue, NW., Washington, DC 20008.

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239), enacted on December 19, 1989, added a new title IX to the Public Health Service Act (the Act) which established the Agency for Health Care Policy and Research (the Agency) to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services.

Section 911 of the Act established, within the Agency, the Office of the Forum for Quality and Effectiveness in Health Care (the Forum). Section 912 of the Act directs the Forum to arrange for the development and periodic review and updating of:

> Clinically relevant guidelines that may be used by physicians, educators and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

Section 912 of the Act also provides that by not later than January 1, 1991, the Administrator of the Agency shall assure the development of an initial set of guidelines, standards, performance measures, and review criteria that includes not less than 3 clinical treatments or conditions that:

1. Account for a significant portion of expenditures under the Medicare program, and have a significant variation in the frequency or the type of treatment provided; or
2. Otherwise meet the needs and priorities of the Medicare program.

Section 914 of the Act lists factors to be considered in establishing priorities for guidelines, including the extent to which the proposed guidelines would:

1. Improve methods of prevention, diagnosis, treatment and clinical management and thereby benefit a significant number of individuals;
2. Reduce clinically significant variations among providers in making diagnoses and providing treatments, or reduce significant variations in the outcomes of health care services or procedures; and
3. Reduce variations in the services and procedures utilized for diagnosis and treatment (and potentially produce savings in health care expenditures).

Based on these statutory criteria, consultation with the Health Care Financing Administration, studies conducted by the Institute of Medicine, availability of reliable research data, and a high degree of professional consensus, the following topics have been selected for initial guideline development:

1. Visual impairment due to Cataract in the Aging Eye
2. Diagnosis and Treatment of Benign Prostatic Hyperplasia
3. Urinary Incontinence in the Adult
4. Prediction, Prevention and Early Treatment of Pressure Sores in Adults
5. Delivery of Comprehensive Care in Sickle Cell Disease
6. Pain Management
7. Diagnosis and Treatment of Depressed Outpatients in the Primary Care Setting

To meet the requirement to assure the development of initial guidelines by January 1991, the Forum has arranged for panels of experts in the above listed topics and consumers who will develop the specific guidelines. Panel responsibilities include assessment of the available scientific evidence and clinical consensus and determination of the scope of the guideline.

In addition to the solicitation of relevant written material in the above-referenced Federal Register Notice published on August 28 (55 FR 35185), a series of public meetings is being arranged to provide an opportunity for interested parties to provide relevant information and comments concerning the particular guidelines under development.

Arrangements for October 16 Public Meeting on Urinary Incontinence in the Adult

Representatives of organizations and other individuals are invited to provide relevant written comments and information and make a brief (5 minutes or less) oral statement. The Office of the Forum for Quality and Effectiveness in Health Care is making the administrative arrangements for this public meeting on behalf of the panel. Attendees must register with the Forum at the address set out below by October 9 and indicate whether they plan to make an oral statement. Those wishing to make oral statements and provide written comments and information should also submit copies of these to the Forum by October 9. If more requests to make oral statements are received than can be accommodated between 8 AM-Noon on October 16, the co-chair persons will allocate speaking time in a manner which ensures, to the extent possible, that the views of health care professionals and providers, health care consumers, and product and pharmaceutical manufacturers are all represented. Attendees who cannot be allocated speaking time because of time constraints may be assured that their written comments will be considered by the panel in developing the guidelines. Stephen H. King, M.D., Director, Forum for Quality & Effectiveness in Health Care, Agency for Health Care Policy & Research, Parklawn Building, rm 18A46,

5600 Fishers Lane, Rockville, MD 20857, Phone 301–443–8754, Fax 301–443–7474.

Meetings on the other topics will be held in the near future and will also be announced in the **Federal Register.**

Dated: September 26, 1990.

J. Jarrett Clinton,

Assistant Surgeon General, Acting Administrator.

[FR Doc. 90–23261 Filed 10–1–90; 8:45 am]

BILLING CODE 4160–90–M

National Institutes of Health

Consensus Development Conference On Diagnosis and Management of Asymptomatic Primary Hyperparathyroidism

Notice is hereby given of the NIH Consensus Development Conference on "Diagnosis and Management of Asymptomatic Primary Hyperparathyroidism" which will be held on October 29–31, 1990 in the Masur Auditorium of the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. This conference is sponsored by the National Institute of Diabetes and Digestive and Kidney Diseases and the NIH Office of Medical Applications Research.

Hyperparathyroidism is increasingly being recognized in asymptomatic patients as a result of widespread use of multiphasic screening tests that lead to detection of hypercalcemia. Because the disease is now known to be more common than previously appreciated, with two new cases occurring per thousand women over 60 years of age per year, primary care physicians as well as endocrinologists are increasingly interested in the correct diagnosis and proper management of patients with hyperparathyroidism.

Physicians are often uncertain about the management of patients with subtle or absent signs and symptoms and a clear biochemical diagnosis of hyperparathyroidism. Especially difficult are decisions about indications for surgery and how patients should be monitored to detect silent organ damage, particularly progressive bone loss. Data are now available on the natural history of asymptomatic hyperparathyroidism, but controversy exists about the interpretation of this information and its implications for patient management.

This conference will bring together endocrinologists, surgeons, radiologists, epidemiologists, health care providers and the public to examine issues related to the diagnosis and management of asymptomatic primary hyperparathyroidism.

Following a day and a half of presentations by experts and discussion by the audience, a Consensus Panel will weigh the scientific evidence and write a draft statement in response to the following questions:

—What is the most accurate, cost-effective method of diagnosing hyperparathyroidism?

—Are there patients with asymptomatic hyperparathyroidism who can safely be followed? Should they be?

—If not operated on, how should asymptomatic patients be monitored and managed?

—What are the indications for surgery in patients with asymptomatic hyperparathyroidism?

—What is the role of gland localization technology in management of patients with asymptomatic hyperparathyroidism?

—What research should be done to clarify issues in diagnosis and management of hyperparathyroidism?

On the third day of the conference, following deliberation of new findings or evidence that might have been presented during the meeting, the panel will present its final consensus statement.

Information on the program may be obtained from: Judy Corbett, Prospect Associates, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 468–6555.

Dated September 24, 1990.

William Raub,

Acting Director, NIH.

[FR Doc. 90–23201 Filed 10–1–90; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program, Board of Scientific Counselors' Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina, on October 15 and 16, 1990.

The meeting will begin at 1:30 p.m. on October and will be open to the public from 1:30 p.m. to 6 p.m. The preliminary agenda topics with approximate times are as follows:

1:30 p.m.–2:20 p.m.:
- Update on Activities of the Technical Reports Review Subcommittee
- Update on Activities of the Reproductive and Developmental Toxicology Program Review Subcommittee
- Symposium Report—Mouse Pulmonary Carcinogenesis

2:20 p.m.–3:20 p.m.—Review of Chemicals Nominated for NTP Studies. - The nominations of five chemicals will be reviewed. The chemicals were evaluated by the NTP Chemical Evaluation Committee on September 12, 1990, and are (with CAS Nos. in parentheses): (1) Dichlorodiphenylsulfone (80–07–9); (2) Dicyclopentadiene (77–73–6); (3) Methylene Blue (61–73–4, 7220–79–3); (4) Phosphine (7803–51–2); and (5) Propylene Glycol T-Butyl Ether (57018–52–2).

3:45 p.m.–4:15 p.m.:
- Concept Reviews
  - A. Investigation of Molecular Mechanisms of Chemical Carcinogenesis in Mammalian Cell Systems;
  - B. Immunotoxicity of Workplace Xenobiotics in Humans;
  - C. Studies of Chemical Disposition in Mammals

4:15 p.m.–5 p.m.
- NTP Quality Control and Quality Assurance Programs—Long-term Animal Studies

The meeting on October 16 will be open to the public from 8:30 a.m. until adjournment. The preliminary agenda topics with approximate times are as follows:

8:30 a.m.–8:45 a.m.:
- Report of the Director, NTP

8:45 a.m.–11:30 a.m.:
- Program on Cell Proliferation in Liver and Forestomach Carcinogenesis

11:30 a.m.–12 Noon:
- Program on Toxicity and Carcinogenesis

1 p.m.–4:30 p.m.:
- Program on Toxicity and Carcinogenesis (cont'd.)

Public Comments—Persons wanting to make remarks from the floor during time allowed for public comments must notify the Executive Secretary by telephone or by mail no later than October 10, 1990, and provide a copy of any written remarks by October 12, 1990. Oral presentation should supplement written statements and will be restricted to five minutes.

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FTS 629–3971, will have available a roster of Board members and other program information prior to the meeting and summary minutes subsequent to the meeting.

Dated: September 26, 1990.

David P. Rall, M.D., Ph.D.

Director, National Toxicology Program.

[FR Doc. 90-23202 Filed 10-1-90; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program, Availability of Technical Report on Toxicology and Carcinogenesis Studies of Benzofuran

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of benzofuran, used as an intermediate in the polymerization of coumarone-indene resins found in various corrosion-resistant coatings such as paints and varnishes, in water-resistant coatings for paper products and fabrics, and in adhesives approved for use in food containers.

Toxicology and carcinogenesis studies were conducted by administering to groups of 50 male rats 0, 30, or 60 mg/kg benzofuran in corn oil by gavage, 5 days per week for 103 weeks. Groups of 50 female rats were administered 0, 60, or 120 mg/kg on the same schedule. Groups of 50 male mice were administered 0, 60, or 120 mg/kg and groups of 50 female mice were administered 0, 120, or 240 mg/kg on the same schedule.

Under the conditions of these 2-year gavage studies, there was no evidence of carcinogenic activity [1] of benzofuran for male F344/N rats receiving doses of 30 or 60 mg/kg per day. There was some evidence of carcinogenic activity of benzofuran for female F344/N rats, based on increased incidences of tubular cell adenocarcinomas of the kidney. There was clear evidence of carcinogenic activity for male and female B6C3F1 mice, based on increased incidences of neoplasms of the liver, lung and forestomach.

Exposure to benzofuran increased the severity of nephropathy in male rats, increased the incidences of nephropathy in female rats, and induced hepatocellular metaplasia in the pancreas in female rats. Nonneoplastic lesions observed in mice exposed to benzofuran included syncytial alteration of the liver, bronchiolar epithelial hyperplasia, and epithelial hyperplasia of the forestomach.

The study scientist for these studies is Dr. Richard Irwin. Questions or comments about this Technical Report should be directed to Dr. Irwin at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-3340.

Copies of Toxicology and Carcinogenesis Studies of Benzofuran in F344/N Rats and B6C3F1 Mice (Gavage Studies) (TR 370) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: September 26, 1990.

David P. Rall,

Director.

[FR Doc. 90-23200 Filed 10-1-90; 8:45 am]

BILLING CODE 4140-01-M

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); and one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-040-00-4410-14]

Notice of Availability and Opportunity for Public Hearings; Kansas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Tulsa District, Oklahoma Resource Area, announces the availability of the Draft Kansas Resource Management Plan/ Environmental Impact Statement (RMP/EIS) for public review and comment. This document analyzes land use planning options for BLM-managed Federal minerals throughout the State of Kansas.

DATES: Comments on the Draft RMP/EIS will be accepted if they are submitted or postmarked no later than January 7, 1991.

ADDRESSES: Comments can be sent to: Paul Tanner, Area Manager, BLM, Oklahoma Resource Area, 200 NW Fifth Street, room 548, Oklahoma City, OK 73102, or submitted at one of the three public hearings. The public hearings conducted to receive oral and written comments on the Draft Kansas RMP/EIS will be at the following locations:

Date and time	City	Meeting location
October 30, 1990, 3 pm.	Lenexa, KS	La Quinta Inn, I-35 & 95th Street.
October 31, 1990, 3 pm.	Salina, KS	Ramada Inn, I-70 & US Hwy 81N.
November 1, 1990, 3 pm.	Pratt, KS	Seville Inn, 1400 West US Hwy 54.

Oral testimony at these hearings will be limited to 10 minutes per executive order, law, regulation or policy. Approximately 596,000 acres would be open to leasing. Approximately 101,000 acres would be closed to fluid leasing. As with all alternatives, person. A copy of the Draft RMP/EIS will be sent to all individuals, Government agencies, and groups who have expressed interest in the Kansas planning process.

SUPPLEMENTARY INFORMATION: The Draft Kansas RMP/EIS identifies and analyzes the future options for managing the Federal mineral estate situated within Kansas administered by the BLM. The planning area for the Kansas RMP includes all BLM-managed Federal mineral estate within Kansas. The Federal mineral estate encompasses over 744,000 acres of both split estate minerals (Federal minerals under private or State surface) and minerals under other Federal surface management agencies lands. Not included are Federal minerals under the U.S. Forest Service-managed Cimarron National Grassland. The issue addressed by this RMP/EIS effort is the leasing and development of the BLM-managed Federal oil and gas mineral resource. The Draft Kansas RMP was prepared using the BLM planning regulations issued under the authority of the Federal Land Policy and Management Act of 1976. The Draft RMP provides a comprehensive framework for managing and allocating Federal minerals within Kansas over the next 15-20 years..

Three RMP alternatives have been developed to describe the different management options available to BLM for administering Federal oil and gas in Kansas. Each alternative presents a different level of oil and gas leasing stipulation application. Together with the Continuing Management Guidance each of the alternatives forms a separate, feasible land-use plan.

The three alternatives developed for the Kansas RMP are summarized below:

Alternative A

The Current Management Alternative constitutes the no action alternative. Under this alternative fluid mineral leases would continue to be issued with the standard oil and gas lease provisions as well as with surface resource protection stipulations required by other resources would continue to be managed as described in the Continuing Management Guidance and Actions section of chapter 2 of the document.

Alternative B

The Preferred Alternative, Intensive Surface Protection, places primary emphasis on protecting important environmental values through the use of additional oil and gas leasing

stipulations. The goal of this alternative is to change present management direction so that identified surface resource values are protected in a manner that gives priority to the surface resource.

Alternative C

Alternative C, the No Leasing Alternative, places primary emphasis on removing Federal oil and gas from availability for development. This alternative changes management direction so that the highest priority is placed on the protection of surface resources from disturbance caused by oil and gas development.

Under Alternative B, fluid mineral leases would not be issued. Approximately 642,000 acres of Federal oil and gas would be closed to fluid leasing.

FOR FURTHER INFORMATION OR COPIES OF THE DRAFT RMP/EIS, CONTACT: Brian D. Mills, RMP Team Leader, Oklahoma Resource Area, 200 NW Fifth Street, room 548, Oklahoma City, Oklahoma 73102, Telephone: (405) 231–5491 or FTS 736–5491.

Dated: September 21, 1990.

Larry L. Woodard,

State Director.

[FR Doc. 90–23125 Filed 10–1–90; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Environmental Document Prepared For Proposed Research Cruise on the Pacific Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service (MMS), U.S. Department of the Interior.

ACTION: Notice of the Availability of Environmental Document Prepared for an OCS Minerals Research Cruise and Study on the Pacific OCS.

SUMMARY: The MMS, in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of a NEPA-related Revised Environmental Assessment (EA) and Finding of No Significant Impact (FONSI), prepared by the MMS for the following Research Cruise proposed on the Pacific OCS.

Parties	Activity	Location	Date
Oregon Placer Minerals Technical Task Force, Oregon Department of Geology and Minerals Industries, Minerals Management Service (DOI), U.S. Geological Survey (DOI).	Research cruise to facilitate data collection and analysis for delineation of placer deposits off the Oregon coast.	Cape Blanco area, bounded by 42°46′ to 42°56′ N latitude and 124°34′ to 124°39′ W longitude. Rogue River area, bounded by 42°45′ to 42°39′ N latitude and 124°25′ to 124°38′ W longitude.	9/19/90 to 10/4/90

Persons interested in reviewing the environmental document for the proposal listed above or obtaining information about EAs and FONSIs prepared for activities on the Pacific OCS are encouraged to contact the MMS office in the Pacific OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Leasing and Environment, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Mail Stop 7300, Los Angeles, California, 90017, Telephone (213) 894–6775.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relate to research and development of mineral resources on the Pacific OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant affects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Dated: September 14, 1990.

J. Lisle Reed,

Regional Director.

[FR Doc. 90–23190 Filed 10–1–90; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf Advisory Board—Policy Committee/Scientific Committee; Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92–463, 5 U.S.C. Appendix 1, and the Office of Management and Budget's Circular No. A–63, Revised. The Policy Committee and the Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board will meet from Tuesday, October 30 through Thursday, November 1, at the Wilmington Hilton, 301 North Water Street, Wilmington, North Carolina (919–763–5900). Below is a schedule of meetings that will occur.

An Information Management Workshop will be held from 8 a.m. to 5 p.m. on Tuesday, October 30. The agenda for the Workshop will cover the following subjects:

- A demonstration of the new Environmental Studies Database.
- Presentations on information management systems in other Federal agencies.
- Discussion on the MMS Environmental Studies information management needs for the future.

The Policy Committee and the Scientific Committee will meet in joint session from 8:30 a.m. to 5:15 p.m. on Wednesday, October 31. The agenda will cover the following principal subjects:

- The Role of Science in the Future of the OCS Program.
- Report of the Joint Policy/Scientific Committee Subcommittee on Scientific Environmental Information and OCS Decisionmaking.
- The Role of Public Education in the OCS Program.
- Availability of Scientific Information from *Exxon Valdez* Oil Spill Damage Assessment Studies.

The Policy Committee will meet on Thursday, November 1, 8 a.m. to 4:45 p.m. The agenda will cover the following subjects:

- Energy Responses to the Gulf Crisis.
- Report of the Oil Spill Recommendations Implementation Subcommittee.
- Status Report on Mobil Exploration Plan for the Manteo Play Off North Carolina.

The Scientific Committee will meet in plenary session on Thursday, November 1 from 8 a.m. to 10 a.m. The agenda will cover the following subjects:

• Committee business and resolutions.
• Environmental Studies Program Status Review.

The Scientific Committee will meet in subcommittees from 10 a.m. to 5 p.m.

All of the Advisory Board meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the Scientific Committee plenary session with lesser numbers at the subcommittee meetings.

Upon request, interested parties may make oral or written presentations to the Policy Committee. Such requests should be made no later than October 15, 1990, to the OCS Policy Committee, Minerals Management Service, Department of the Interior, 1849 C Street NW., Room 4230, Washington, DC 20240, Attention: Carolita Kallaur.

Requests to make oral statements should be accompanied by a summary of the statement to be made. For more information, contact Carolita Kallaur at 202–208–3504.

Minutes of the joint Policy/Scientific Committee meeting and the Policy Committee meeting will be available for public inspection and copying at the Minerals Management Service, Department of the Interior, 1849 C Street NW., Room 2070, Washington, DC 20240.

All inquiries concerning the Scientific Committee meeting and Subcommittee meetings should be addressed to Don Aurand, Chief, Branch of Environmental Studies. All inquiries concerning the Information Management Workshop should be addressed to: Mr. Norman Hurwitz, Branch of Environmental Studies. Their address is the Minerals Management Service, Offshore Environmental Assessment Division, Mail Stop 4310, 381 Elden Street, Herndon, Virginia 22070, telephone 703–787–1717.

Dated: September 26, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90–23302 Filed 10–1–90; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–290 (Sub-No. 109X)]

Southern Railway Co.; Abandonment Exemption—In Oconee County, SC

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 0.23-mile line of railroad between mileposts Z–43.86 and Z–44.09, at Walhalla, Oconee County, SC.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on November 1, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by October 12, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by October 22, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: F. Blair Wimbush, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by October 5, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 24, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–23158 Filed 10–1–90; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

[AAG/A Order No. 45–90]

Privacy Act of 1974; Modified System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Justice Management Division, Department of Justice, proposes to modify a system of records entitled "Department of Justice (DOJ) Controlled Parking Records, JUSTICE/JMD–017." Notice of the system was last published on December 11, 1987 (52 FR 47272).

The system notice has been rewritten to more fully and more accurately describe the system. Revisions include both factual and editorial changes. The most significant changes are (1) including certain former DOJ employees and other Federal agency employees as individuals covered by the system and (2) adding a new routine use. The routine use will permit the disclosure of information to other Federal agencies to enable the Department of Justice, as well as other Federal agencies, to ensure fairness in agency parking programs.

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment on new routine uses; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the system modifications. However, a

waiver of the 60-day requirement has been requested of OMB. Therefore, please submit comments by November 1, 1990. The public, OMB, and the Congress are invited to submit any comments to Patricia E. Neely, Staff Assistant, Facilities and Administrative Services Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 529, IND Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report on this system to OMB and the Congress.

The system description is printed below.

Dated: September 13, 1990.

Harry H. Flickinger,

Assistant Attorney General for Administration.

JUSTICE/JMD-017

SYSTEM NAME:

Department of Justice (DOJ) Controlled Parking Records

SYSTEM LOCATION:

U.S. Department of Justice; 10th Street and Constitution Avenue, NW., Washington, DC 20530

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOJ employees and other Federal agency employees who have applied, and are either participants or appear on a "wait list," for vehicle parking space which is assigned and controlled by the Department of Justice, per Department of Justice Order 2540.2D, dated December 20, 1977. The system also covers former DOJ employees who participated in the parking program during their employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Paper records including DOJ car/van pool space applications and written requests for executive, unusual and handicapped parking assignments. Computer records include data from the employee applications and/or from personnel records. Data from personnel records may include any data needed to process an application for parking—such as that needed to verify employment e.g., Federal service computation date, organization code, or that needed to identify parking assignments that are no longer valid, e.g., separation date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 40 U.S.C. 471 *et seq.*; Executive Order 12191; and Federal Property Management Regulations at 41 CFR 101–20. Operating procedures are contained in DOJ Order 2540.2D, dated December 20, 1977.

PURPOSE OF THE SYSTEM:

Information in the system will be used to assign, manage, and control the use of vehicle parking spaces for which the Department of Justice is responsible. Information in the system will be used also to verify the validity of DOJ parking assignments and, similarly, to assist other Federal agencies in verifying the accuracy and fairness of their parking assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records or information may be disclosed as is necessary to respond to congressional inquiries on behalf of constituents.

Records may be disclosed to the National Archives and Records Administration and the to the General Services Administration in records management inspections conducted under the authority of Title 44 U.S.C. 2904 and 2906.

(1) DOJ may provide an affirmative, negative or "non-DOJ employee" response to a Federal agency which inquires as to whether or not individuals who are listed as DOJ employee participants in that agency's parking program are also listed as participants in the DOJ parking program; (2) DOJ may provide to any Federal agency either a single employee name or a list of that agency's employees who are participants in the DOJ parking program in order to elicit from that agency an affirmative, negative, or "non-employee" response as to whether the same individual(s) are listed as employee participants in that agency's parking program. Because parking spaces may be assigned according to a variety of established priorities among Federal agencies and, in some instances, according to specific criteria, e.g., carpools with the greatest number of participants (except in a tie), disclosure would enable another Federal agency (in the first instance) and DOJ (in the second instance) to review the validity of parking space assignments, identify and take appropriate action with respect to those who violate parking assignment policies (as set forth in published agency operating procedures and policies), and thus allocate spaces fairly.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are stored in a locked file cabinet and on the IBM main frame computer at the Justice Data Computer Center.

RETRIEVABILITY:

DOJ employee parking records are retrieved by employee name directly and/or by asking the system to segregate a list, by name, of those who work for a particular DOJ component. Former DOJ employee names are retrieved by asking the system to segregate a list, by name, of those parking participants who have separated from employment with DOJ. Other Federal agency employee names are retrieved by asking the system to segregate a list, by name, of those parking participants who are employees of a particular Federal agency.

SAFEGUARDS:

Records are in a locked room during non-duty hours. In addition, paper records are kept in a locked filing cabinet; and the computer is key-locked and has password protection. Information is disseminated to those employees who have a need-to-know to perform their duties.

RETENTION AND DISPOSAL:

Parking assignments are revalidated annually. Paper and automated parking records are retained for the duration of an individual's parking assignment and disposed of in accordance with General Records Schedule, 36 CFR 1228.22.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Property Management Services, Facilities and Administrative Services Staff, Information and Administrative Services, Justice Management Division, U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, DC 20530.

NOTIFICATION PROCEDURES:

Address requests to the system manager.

RECORD ACCESS PROCEDURES:

Address requests to the system manager.

CONTESTING RECORD PROCEDURES:

Address requests to the system manager.

RECORD SOURCE CATEGORIES:

Employee applications; personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

None.

[FR Doc. 90–23191 Filed 10–1–90; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 12, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 12, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 17th day of September 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Erico Fastening Systems (IUE)	Moorestown, NJ	9/17/90	9/05/90	24,846	Fasteners.
Future Logging (Company)	Springfield, OR	9/17/90	8/30/90	24,847	Logging.
General Motors SPO (UAW)	N Brunswick, NJ	9/17/90	8/30/90	24,848	Auto Parts.
Goody Products, Inc. (Workers)	Kearney, NJ	9/17/90	8/03/90	24,849	Hair Accessories.
Harbor Pallet (Workers)	Hoquium, WA	9/17/90	8/31/90	24,850	Shingles & Shakes
Joseph Love, Inc. (Workers)	New York, NY	9/17/90	9/06/90	24,851	Dresses.
Joseph Love, Inc. (Workers)	College Pt., NY	9/17/90	9/06/90	24,852	Dresses.
Koret of California, Inc. Plant #9 (ILGWU)	San Francisco, CA	9/17/90	9/05/90	24,853	Sportswear.
Koret of California, Inc. Plant #10 (ILGWU)	San Francisco, CA	9/17/90	9/05/90	24,854	Sportswear.
Koret of California, Inc. Howard Plant (ILGWU)	San Francisco, CA	9/17/90	9/05/90	24,855	Sportswear.
Land & Marine Rental Co./Tesoro Petroleum (Workers).	Vernal, UT	9/17/90	9/06/90	24,856	Oilfield Equipment.
Magnetic Metals Corp. (IUE)	Camden, NJ	9/17/90	9/06/90	24,857	Magnetic Lamination.
National Starch & Chemical Co. (GC)	Plainfield, NJ	9/17/90	9/10/90	24,858	Liquid Adhesives.
Navasky Co. (Workers)	Philipsburg, PA	9/17/90	8/29/90	24,859	Suits & Coats.
Oxford of Commerce (Workers)	Commerce, GA	9/17/90	9/10/90	24,860	Slacks.
Petren Drilling Corp. (Company)	Englewood, CO	9/17/90	8/30/90	24,861	Oil & Gas
Petren Drilling Corp. (Company)	Canadian, TX	9/17/90	8/30/90	24,862	Oil & Gas.
RCA Business Telephone Systems	Mt. Laurel, NJ	9/17/90	8/24/90	24,863	Telephone Systems.
Seismograph Service Corp. (Company)	Tulsa OK	9/17/90	9/11/90	24,864	Oil & Gas.
Sherwood Medical Co.	San Diego, CA	9/17/90	8/31/90	24,865	Medical Devices.
Superior Combustion Industries, Inc.	Emmaus, PA	9/17/90	9/06/90	24,866	Boiler & Parts.
Wonderknit/Scoreboard (Workers)	Galax, VA	9/17/90	9/04/90	24,867	Mens' Shirts.

[FR Doc. 90-23273 Filed 10-1-90; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24, 605; (The) Eastern Co., Alloy Foundries Div., Naugatuck, CT

TA-W-24, 607; Holophane Co., Inc., Edison, NJ

TA-W-24, 602; Crane Midwest, St. Louis, MO

TA-W-24, 619; Reichert Shake & Fencing, Inc., Toledo, WA

TA-W-24, 604; Crescent Brick Co., Altoona, PA

TA-W-24, 561; Premier Thread Co., Inc., Lincoln, RI

TA-W-24, 651; Standard Gauge, Poughkeepsie, NY

TA-W-24, 612; Macgregor Sports, Inc., Fond du Lac, WI

TA-W-24, 630; Alymar Bags, Inc., Brooklyn, NY

TA-W-24, 608; Lear Siegler Seating Corp., Chesterfield, MO

TA-W-24, 621; Thermal Systems, Inc., Salt Lake City, UT

TA-W-24, 622; Thermal Systems, Inc., Denver, Co

TA-W-24, 625; Thermal Systems, Inc., Jacksonville, FL

TA-W-24, 626; Thermal Systems, Inc., Springfield, MA

TA-W-24, 643; Latrobe Steel Co., Latrobe, PA
TA-W-24, 657; White Consolidated Industries, Inc., Mansfield, OH
TA-W-24, 650; Phillips Manufacturing Co., Inc., Newark, NJ
TA-W-24, 648; NJE Corp., Dayton, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24, 596; (The) Central Steel Drum Co., Newark, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24, 593; Bessemer Processing Co., Inc., Newark, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24, 629; Allergan Pharmaceuticals, Inc., Greenville, TN

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24, 645; Maxwell House Coffee Co., Hoboken, NJ

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-24, 603; Cray Research, Inc., Chippewa Falls, WI

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-24, 588; Air Cooled Applications, Div. of American Precision, Inc., Lockport, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24, 597; Chevron U.S.A., Eastern Region, New Orleans, LA

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-24, 598; Cindy-Jo, Inc., Brooklyn, NY

A certification was issued covering all workers separated on or after June 28, 1989.

TA-W-24, 600; Cooper Sportswear Manufacturing Co., Inc., Newark, NJ

A certification was issued covering all workers separated on or after June 28, 1989.

TA-W-24, 637; Endicott Johnson Corp., Forest City, NY

A certification was issued covering all workers separated on or after July 7, 1989.

TA-W-24,601; Colonial Corp/Monroe Industries, Tellico Plains, TN

A certification was issued covering all workers separated on or after June 25, 1989 and before July 31, 1990.

TA-W-24,620; Stevens Sportswear Co., Inc., Pachuta, MS

A certification was issued covering all workers separated on or after June 26, 1989.

TA-W-24,616; Niemor Contractors, Inc., Newark, NJ

A certification was issued covering all workers separated on or after June 28, 1989.

TA-W-24,609; Lee Co., Merriam, KS

A certification was issued covering all workers separated on or after July 16, 1989.

TA-W-24,599; Cleve-Tenn Industries, Inc., Newark, NJ

A certification was issued covering all workers separated on or after June 28, 1989.

TA-W-24,628; Westfield Sewing Co., Westfield, NY

A certification was issued covering all workers separated on or after June 27, 1989 and before June 30, 1990.

TA-W-24,611; Amphenol Corp., Bendix Connector Operation, Sidney, NY

A certification was issued covering all workers separated on or after January 1, 1990.

TA-W-24,614; Miller Printing Equipment Corp., Pittsburgh, PA

A certification was issued covering all workers separated on or after September 2, 1990.

TA-W-24,594; Brittain Creek Cedar, Inc., Aberdeen, WA

A certification was issued covering all workers separated on or after January 1, 1990 and before September 1, 1990.

TA-W-24,613; Marmot Mountain International, Inc., Grand Junction, CO

A certification was issued covering all workers separated on or after June 29, 1989.

TA-W-24,642; Johnson Controls, Inc., Milwaukee, WI

A certification was issued covering all workers separated on or after July 9, 1989.

TA-W-24,655; The Timberland Co., Bangor, ME

A certification was issued covering all workers separated on or after August 1, 1990.

TA-W-24,825; George Harris Oil Co., Abilene, TX

A certification was issued covering all workers separated on or after September 9, 1989.

TA-W-24,641; J. Schoeneman, Inc., Chambersburg, PA

A certification was issued covering all workers separated on or after July 6, 1989.

TA-W-24,641A; J. Schoeneman, Inc., Owens Mills, MD

A certification was issued covering all workers separated on or after July 6, 1989.

TA-W-24,641B; Wiltex Co., Wilmington, DE

A certification was issued covering all workers separated on or after July 6, 1989.

TA-W-24,633; AT&T Technology Networks Systems, Phoenix Works, Phoenix, AZ

A certification was issued covering all workers separated on or after July 6, 1989.

I hereby certify that the aforementioned determinations were issued during the month of September 1990. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: September 24, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-23274 Filed 10-1-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,505; TA-W-24,584]

Jim Gold Logging, Hoquiam, WA; Panhandle Royalty Co., Oklahoma City, OK: Adjustment Assistance

Dismissal of Applications for Reconsideration

Pursuant to 28 CFR 90.18 applications for administrative reconsideration were filed with the Director of the Office of trade Adjustment Assistance for workers at the Jim Gold Logging, Hoquiam, Washington and Panhandle Royalty Company, Oklahoma City, Oklahoma. The reviews indicated that the applications contained no new substantial information which would bear importantly on the Department's

determinations. Therefore dismissal of the applications were issued.

TA-W-24,505; Jim Gold Logging, Hoquiam, Washington (September 21, 1990)

TA-W-24,584; Panhandle Royalty Company, Oklahoma City, Oklahoma (September 21, 1990)

Signed at Washington, DC this 24th day of September 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-23275 Filed 10-1-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,760]

Northern Chatham Bedding Company, Rahway, NJ

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 20, 1990 in response to a worker petition which was filed on behalf of workers at Northern Chatham Bedding Company, Rahway, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 25th day of September 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-23276 Filed 10-1-90; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Maryland State Standards; Notice of Approval

1. *Background*—Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of subpart 0 to part 1952 containing the decision.

The Maryland State Plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of subpart 0 sets forth the State's schedule for the adoption of Federal standards. By letter dated August 29, 1990, from Commissioner Henry Koellein, Jr., Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to: 29 CFR 1910.1450, subpart Z, and appendices A and B, pertaining to Occupational Exposure to Hazardous Chemicals in Laboratories as published in the **Federal Register** of January 31, 1990 (55 FR 3327), and corrections to that standard published in the **Federal Register** of March 6, 1990 (55 FR 7967) and March 30, 1990 (55 FR 12110). This standard is contained in COMAR 09.12.31. Maryland Occupational Safety and Health Standards were promulgated after a public hearing on June 29, 1990. This standard was effective on September 3, 1990.

2. *Decision*—Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and, accordingly, are approved.

3. *Location of the Supplements for Inspection and Copying*—A copy of the standards supplements, along with the approved plan, may be inspected and copied at the following locations during normal business hours: Office of the Regional Administrator, 3535 Market Street, suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; and the OSHA Office of State Programs, room N-3700, Third Street and Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation*—Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective October 2, 1990.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)

Signed at Philadelphia, Pennsylvania, this 11th day of September 1990.

Linda R. Anku,

Regional Administrator.

[FR Doc. 90-23277 Filed 10-1-90; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-416]

Entergy Operations, Inc., et al. Grand Gulf Nuclear Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-29, issued to Entergy Operations, Inc., (the licensee), for operation of the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would increase the fuel enrichment and core average burnup relating to extended fuel irradiation.

The proposed action is in accordance with the licensee's application for amendment in support of Cycle 5 reload operations dated June 8, 1990, and the criticality analysis for the Cycle 5 reload fuel submitted on April 26, 1990.

The Need for the Proposed Action

The proposed changes are needed to allow the licensee the flexibility of extending the fuel irradiation, thereby permitting operation for longer fuel cycles.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed changes to the Technical Specifications (TS) for Fuel Cycle 5. The proposed revisions would permit use of fuel enrichments up to 3.80 percent U-235 and burnup levels up to 40 gigawatt days per metric ton (GWD/MT). The previous maximum fuel enrichment was 3.47 percent and burnup was 34 GWD/MT. The safety considerations associated with reactor

operation with slightly higher enrichment and slightly extended fuel irradiation have been evaluated by the NRC staff. The staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability of any accident. The increased burnup may slightly change the mix of fission products that might be released in the event of a serious accident, but such small changes would not significantly affect the consequences of serious accidents. No changes are being made in the types or amounts of any radiological effluents that may be released offsite and there is no significant increase in allowable individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that this proposed action would result in no significant radiological impact.

With regard to potential nonradiological impacts of reactor operation with extended irradiation, the proposed changes to the TS involve systems located within the restricted area as defined in 10 CFR part 20. The proposed changes will not result in a measurable change to the nonradiological plant effluents and therefore will not have any other environmental impact. The Commission concludes that there are no significant nonradiological impacts associated with the proposed amendment.

The environmental impacts of transportation resulting from the use of higher enrichment fuel and extended irradiation are discussed in the staff assessment entitled, "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation," which was published in the **Federal Register** on August 11, 1988 (53 FR 30355). This action was in connection with the Shearon Harris Nuclear Power Plant, Unit 1, Environmental Assessment and Finding of No Significant Impact. As indicated therein, the environmental cost contribution of transportation of the increases in the fuel enrichment up to 5% and irradiation limits up to 60 GWD/MT are either unchanged or may, in fact, be reduced from those summarized in Table S–4, as set forth in 10 CFR 51.52(c). Those findings are applicable to the proposed amendment for Grand Gulf Nuclear Station, Unit 1. For Grand Gulf Nuclear Station, Unit 1, the core thermal power level at which the plant is licensed to operate, 3830 megawatts, exceeds the 3800 megawatts assumed in the analysis of 10 CFR 50.52. The only change in environmental impact from that summarized in Table S–4 for this higher power is an insignificant increase (less than one percent) in the heat per irradiated fuel cask in transit.

Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed changes.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on July 25, 1990 (55 FR 30297). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements related to the operation of Grand Gulf Nuclear Station, Units 1 and 2, dated September 1981.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further information with respect to this action, see the licensee's submittals dated April 26, 1990, and June 8, 1990, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Dated at Rockville, Maryland, this 27th day of September 1990.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Acting Director, Project Directorate IV–1, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–23253 Filed 10–1–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Procedures for Meetings

Background

Procedures to be followed with respect to meetings conducted pursuant to the Federal Advisory Committee Act by the Nuclear Regulatory Commission's (NRC's) Advisory Committee on Reactor Safeguards (ACRS), that were published September 27, 1989 (54 FR 39594), are renewed by this notice. These procedures are set forth in order that they may be incorporated by reference in future individual meeting notices.

The ACRS is a statutory group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a nuclear power reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements from members of the public to be considered as a part of the Committee's information gathering procedure, they are not adjudicatory hearings such as those conducted by the NRC's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those pertaining to radiological safety. ACRS full Committee meetings are conducted in accordance with the Federal Advisory Committee Act.

General Rules Regarding ACRS Meetings

An agenda is published in the **Federal Register** for each full Committee meeting. Practical considerations may dictate some alterations in the agenda. The Chairman of the Committee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete session from one day to the next.

With respect to public participation in ACRS meetings, the following requirements shall apply:

(a) Persons wishing to submit written comments regarding the agenda items may do so by providing a readily reproducible copy at the beginning of the meeting. Comments should be limited to safety-related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to the Designated Federal Official specified in the **Federal Register** notice for the individual meeting in care of the ACRS, NRC, Washington, DC 20555. Comments postmarked no later than one calendar week prior to a meeting will normally be received in time for reproduction, distribution, and consideration at the meeting.

(b) Persons desiring to make oral statements at the meeting should make a request to do so at least one or two days before the meeting, if possible, or prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether a meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by a prepaid telephone call, on the working day prior to the meeting, to the Office of the Executive Director of the Committee (telephone: 301/492–4516 ATTN: the Designated Federal Official specified in the **Federal Register** notice for the meeting) between 7:30 a.m. and 4:15 p.m., Washington, DC, time.

(d) Questions may be asked only by ACRS members, Committee consultants and staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information that may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those open sessions of the meeting when a transcript is being kept.

(f) A transcript is normally kept for certain open portions of the meeting and it will be available in the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555, for inspection within one week following the meeting. A copy of the minutes of the meeting will be available at the same location on or before three months following the meeting. Copies may be obtained upon payment of appropriate charges.

ACRS subcommittee meetings will also be conducted in accordance with these procedures, as appropriate. When subcommittee meetings are held at locations other than Bethesda, MD, reproduction facilities are usually not available. Accordingly, persons wishing to submit written comments regarding agenda items should provide 25 copies for use at such meetings.

Special Provisions When Proprietary Sessions are to be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that it can be confirmed and a determination made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Official prior to the beginning of the meeting.

Dated: September 26, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90–23255 Filed 10–1–90; 8:45 am]

BILLING CODE 7590–01–M

Cleveland Electric Illuminating Co., et al., Perry Nuclear Power Plant, Unit 1; Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a decision concerning a Petition submitted to the Commission by Susan Hiatt, on behalf of Ohio Citizens for Responsible Energy. The Petition requested that the Commission order the immediate shutdown of the Perry Nuclear Power Plant, and pursue enforcement action against Cleveland Electric Illuminating Company based upon the assertion that the facility, from November 1989 to April 6, 1990, had operated in a condition contrary to that permitted by its operating license, as defined by the plant technical specifications.

The Director, Office of Nuclear Reactor Regulation, has determined to deny the request. The reasons for this decision are explained in the "Director's Decision Under 10 CFR 2.206," DD–90–06, which is available for public inspection in the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Local Public Document Room for the Perry Nuclear Power Plant located at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

A copy of the Decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes review of the Decision within that time period.

Dated at Rockville, Maryland this 25th day of September 1990.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 90–23251 Filed 10–1–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–275 and 50–323]

Pacific Gas & Electric Company, Diablo Canyon Nuclear Power Plant Units 1 and 2; Denial of Exemption Request, Filed by International Brotherhood of Electrical Workers, AFL–CIO, Local 1245

The U.S. Nuclear Regulatory Commission (the Commission) has denied an exemption request by the IBEW, Local 1245, from the Commission's random drug testing program at the Diablo Canyon Nuclear Power Plant. The IBEW stated that its request is based on (1) Diablo Canyon's excellent safety record, (2) the reliability and validity of the previous fitness-for-duty policy in effect at Diablo Canyon prior to January 3, 1990, (3) the absence of evidence of drug use or alcohol abuse

by Diablo Canyon employees, and (4) the rule's broad application to workers outside of the radiologically controlled areas and to those whose work could not create challenges to safety systems or complicate the response to off-normal conditions.

The NRC staff has concluded that the IBEW request cannot be approved and has, therefore, denied it. The basis for the staff's denial is that the arguments made by the IBEW are not unique to the Diablo Canyon plant. Similar arguments could be made for any operating power reactor within the Commission's jurisdiction. Further, these arguments were addressed and rejected by the Commission prior to promulgation and adoption of the fitness-for-duty regulation (see 54 FR 24468 et seq.). If the IBEW members were exempted from the provisions of 10 CFR 26.24(a)(2), there would be no logical basis not to exclude all applicable power reactor employees from the provisions of the section in question. As noted in the staff's Safety Evaluation, a recent report submitted to the Commission showed that for the period from January 1 to June 30, 1990, there were two positive random drug tests and three positive for-cause tests at Diablo Canyon. Thus, the granting of an exemption patently would not be in the public interest.

In essence, the IBEW petition requests that the Commission assume that the IBEW's arguments will ultimately be adopted by the courts (presumably through and including the United States Supreme Court) and that the provisions of 10 CFR 26.24(a)(2) should be invalidated. This is an assumption that the Commission has already considered and rejected. Granting the relief sought through an exemption would be tantamount to a finding by the Commission that 10 CFR 26.24(a)(2) should not have been included in the fitness-for-duty rule in the first place. As discussed above, there is no basis in fact or law for such a finding.

For further details with respect to this action, see the IBEW's request for an exemption dated March 13, 1990, as supplemented by letter dated May 25, 1990, and the Safety Evaluation by the Office of Nuclear Reactor Regulation relating to Denial of Exemption Request by IBEW. These documents are available at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 24th day of September, 1990.

For the Nuclear Regulatory Commission.

James E. Dyer,

Acting Project Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-23252 Filed 10-1-90; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Meeting

Pursuant to the Nuclear Waste Technical Review Board's (NWTRB) authority under section 5051 of Public Law 100-203 of the Nuclear Waste Policy Amendments Act (NWPAA) of 1987, the NWTRB Quality Assurance Panel will hold its first panel meeting from 8:30 a.m.–5 p.m. on November 1, 1990, and from 8:30 a.m.–12:30 p.m. on November 2, 1990, at the NWTRB Conference room, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235-4473. Discussions will focus on the implementation of the Department of Energy's (DOE) quality assurance program. Panel members will hear from representatives of the Nuclear Regulatory Commission (NRC), the DOE, the State of Nevada, the Environmental Protection Agency (EPA) and others.

On November 1, 1990, the NRC will discuss quality assurance program requirements. Representatives from the DOE will comment on their interpretation of the NRC's requirements, and explain the implementation of the quality assurance programs at DOE headquarters, field, and contractor offices. The State of Nevada will address its experiences pertaining to the implementation of a quality assurance program. The EPA will provide a perspective on quality assurance at another federal agency.

On November 2, 1990, the panel will hear from DOE's participant organizations on their experiences in quality assurance implementation. The organizations making presentations include the United States Geological Survey (USGS), Lawrence Livermore National Laboratory (LLNL), and Sandia National Laboratories (SNL). Briefings will be followed by discussions.

The public is welcome to participate as observers. Those who wish to attend should contact the NWTRB office, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235-4473, on or before October 24, 1990. The meeting will be transcribed, and transcripts will be available beginning November 28, 1990, through the NWTRB library on a two-week loan basis. Those interested should contact Ms. Victoria Reich, NWTRB librarian (703-235-4473).

The NWTRB was established by the Nuclear Waste Policy Amendments Act (NWPAA) of 1987 (Pub. L. 100-203) to evaluate the scientific and technical validity of activities undertaken by the DOE in its civilian nuclear waste disposal program. The Board is charged with evaluating activities related to the packaging and transportation of high-level radioactive waste, including spent fuel. In the same law, the U.S. Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, as a possible location for a permanent underground repository for spent nuclear fuel and defense high-level waste.

For further information contact the NWTRB office at 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235-4473.

Dated: October 15, 1990.

Dr. William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 90-23186 Filed 10-1-90; 8:45 am]

BILLING CODE 6820-AM-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Council of Advisors on Science and Technology (PCAST)

The President's Council of Advisors on Science and Technology will meet on October 11–12, 1990. The meeting will begin at 9 a.m. in the Conference Room, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC.

The purpose of the Council is to advise the President on matters involving science and technology.

Proposed Agenda

1. Briefing of the Council on the current activities of Office of Science and Technology Policy.
2. Briefing of the Council on current federal activities and policies in science and technology.
3. Discussion of issues and topics for potential working group panels.
4. Discussion of composition of working groups.

Portions of the October 11–12 sessions will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of materials that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of

the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate disclosure of information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

Because of the security requirements, persons wishing to attend the open portion of the meeting should contact Ms. Sally Sherman (202) 395–3902, prior to 3 p.m. on October 10, 1990. Ms. Sherman is also available to provide specific information regarding time, place and agenda for the open session.

Dated: September 25, 1990.

Ms. Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 90–23340 Filed 9–28–90; 9:47 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash, (202) 272–2142.

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002.

New, Proxy Interviews, File No. 270–343.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted for OMB approval a request to conduct interviews of up to 150 persons or entities concerning practical application of the Commission's proxy rules under section 14 of the Securities Exchange Act of 1934. These interviews are necessary to gain a greater understanding and appreciation of the procedures adopted to comply with the proxy rules. Each interview is estimated to require one burden hour.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0104, 0287, and 0362), room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 25, 1990.

[FR Doc. 90–23272 Filed 10–1–90; 8:45 a.m.]

BILLING CODE 8010–01–M

[Release No. 34–28471; File No. SR–CBOE–90–25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Implementation of a Regulatory Oversight Fee

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 7, 1990, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to implement a Regulatory Oversight Service Fee as described in the text of proposed Exchange Rule 2.22(a). Additions are italicized. Deletions are bracketed.

Rule 2.22 Other Fees or Charges

No change.

(a) Regulatory Oversight Service Fees. Member Organizations that are subject to the SEC Net Capital Rule and for which the Exchange has been assigned as the Designated Examining Authority ("DEA") pursuant to SEC Rule 17d–1 shall be required to pay an annual regulatory fee of $0.40 per $1,000 Gross Revenue as reported on their FOCUS Report.

(b) Not applicable.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

As the DEA pursuant to SEC Rule 17d–1, the Exchange has been providing regulatory oversight service to the member organizations it has been assigned for no charge. The New York Stock Exchange ("NYSE") and the National Association of Securities Dealers ("NASD") have imposed regulatory fees and assessments on their members for several years in an effort to offset the costs of regulatory oversight. The NYSE fee is $0.42 per $1,000 gross revenue from the member's FOCUS Report (NYSE Rule 129). The NASD assessments of gross income are based on transactions in state and municipal securities, over-the-counter securities and U.S. Government securities of examined members. While both the NYSE and NASD impose a minimum fee/assessment, the CBOE will not place into effect a minimum fee. The Exchange intends to use the fees to offset the direct regulatory costs incurred as a result of performing its self-regulatory obligations as to the specifically designated firms. The fee will only apply to those specific firms for which the regulatory service is provided and the Exchange will bill each such firm directly.

(2) Basis

The CBOE believes that the proposed rule change is consistent with section 6(h) of the Act, in general, and furthers the objectives of section 6(h)(4), in particular, in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and issuers and other persons using its facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 23, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 25, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–23270 Filed 10–1–90; 8:45 am]

BILLING CODE 8010–01–M

[Release NO. 34–28470; File No. SR–PHLX–90–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Foreign Currency Options Trading Hours

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 27, 1990, and September 4, 1990, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organizations.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Term of Substance of the Proposed Rule Change

Pursuant to Rule 19b–4 of the Act, the PHLX is submitting a proposed rule change notifying the Commission of changes in the Exchange's hours for trading of PHLX foreign currency options. Specifically, for foreign currency options trading, the proposal will allow an 18-hour trading day during eastern daylight time and a 19-hour trading day during eastern standard time.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] The proposed rule change was revised by Amendment 1, which was filed on September 4, 1990.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In September 1988, the Commission approved a proposed rule change modifying the hours that trading of foreign currency options may be conducted on the Exchange.[2] The rule provides flexibility for the Exchange to establish specific hours on the condition, among others, that the Exchange apprise the Commission of any changes in hours via a rule change filed pursuant to section 19(b)(3)(A) under the Act. Accordingly, the Exchange hereby notifies the Commission that commencing on September 20, 1990, trading hours of foreign currency options will be lengthened to coincide with prime afternoon business hours in Tokyo and the Far East. In addition, in order to accommodate the internal operations functions of various securities information processors, there will be a one and one-half hour intermission in trading during each trading day. Trading hours of foreign currency options will be as follows:

During Eastern Daylight Time, foreign currency options trading hours shall be:
Commence trading: 7 p.m.
Intermission: 11 p.m. to 12:30 a.m.
Commence trading: 12:30 a.m.
Close: 2:30 p.m.

During Eastern Standard Time, foreign currency options trading hours shall be:
Commence trading: 6 p.m.
Intermission: 10 p.m. to 11:30 p.m.
Commence trading: 11:30 p.m.
Close: 2:30 p.m.

The PHLX believes that by coordinating its trading hours in foreign currency options with active foreign exchange trading in both the Far Eastern and European foreign exchange markets, the PHLX will be better able to meet the exchange rate risk protection and related hedging needs of both Far Eastern and European manufacturing, banking and commercial firms. The PHLX will provide its members with adequate notice of the time change made as a result of implementation of the proposed rule change. In this regard, the PHLX has already notified foreign currency option floor participants regarding the proposed change in trading hours.

The PHLX expects the extension of its trading hours in its foreign currency options contracts to be treated merely

[2] *See* Securities Exchange Act Release No. 26087 (September 16, 1988), 53 FR 36930 (order approving File No. SR–PHLX–88–25).

as an extension of the existing trading day. Since the initiation of extended foreign currency option trading hours in 1988, each trading day has been deemed to commence at 6 p.m. Eastern Standard Time or 7 p.m. Eastern Daylight Time and continue until 2:30 p.m. the following afternoon. The initiation of further expanded trading hours would not alter this arrangement. For example, open interest and volume will continue to be calculated at the end of the trading day reflecting activity for the entire trading day. Margin requirements will continue to be based upon a calculation of positions created throughout the entire trading day. The Exchange's real-time trade comparison system will be utilized throughout all trading hours and augmented computer processing for the expanded trading hours transactions will be initiated by the Exchange and the Options Clearing Corporation ("OCC"), respectively. In this regard, the PHLX will assign market surveillance and operations staff personnel to cover the expanded trading hours. The PHLX does not believe it will be necessary at the initiation of the expanded trading day to amend existing capital and/or position limit rules. The Exchange believes that existing foreign currency options traders and brokers should provide sufficient market participation and corresponding liquidity during the expanded trading hours.

The PHLX also notes that the inter-bank currency markets effectively operate on a twenty-four (24) hour basis. Hence, persons that establish foreign exchange positions prior to normal U.S. business hours are at risk that the underlying currency markets may move against them while the PHLX market is not yet open for trading. The expansion of the foreign currency options trading hours will provide an opportunity for market participants to protect themselves better against currency market fluctuations.

The PHLX believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote further the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PHLX. All submissions should refer to File No. SR–PHLX–90–26 and should be submitted by October 23, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 25, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–23271 Filed 10–1–90; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Areas #2458 & #2459]

Wisconsin (and Contiguous Counties In Minnesota); Declaration of Disaster Loan Area

Buffalo County and the contiguous counties of Eau Claire, Pepin, and Trempealeau in the State of Wisconsin and Wabasha and Winona Counties in the State of Minnesota constitute a disaster area as a result of damages caused by severe storms and tornadoes which occurred on September 9, 1990. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 23, 1990, and for economic injury until the close of business on June 24, 1991, at the address listed below: Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th fl., Atlanta, Georgia 30308, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9.250
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damage are 245812 for the State of Wisconsin and 245912 for the State of Minnesota. For economic injury the numbers are 713700 for Wisconsin and 713800 for Minnesota.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 24, 1990.

Sally Narey,

Acting Administrator.

[FR Doc. 90–23205 Filed 10–1–90; 8:45 am]

BILLING CODE 8025–01–M

Interest Rates

The interest rate on section 7(a) Small Business Administration direct loans (as amended by Pub. L. 97–35) and the SBA share of immediate participation loans is 9⅝ percent for the fiscal quarter beginning October 1, 1990.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 122.8–1(d)). This rate is a weighted average cost of money to the government for maturities similar to the

average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the October–December quarter of FY 91, this rate will be 8%.

Charles R. Hertzberg,

Assistant Administrator for Financial Assistance.

[FR Doc. 90–23208 Filed 10–1–90; 8:45 am]

BILLING CODE 8025–01–M

Region VI Advisory Council; Public Meeting; New Mexico

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Albuquerque, will hold a public meeting at 9 a.m. on Friday, October 26, 1990, at the SBA Office, 625 Silver SW., suite 320, Albuquerque, New Mexico, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Tom W. Dowell, District Director, U.S. Small Business Administration, 625 Silver SW., suite 320, Albuquerque, New Mexico 87102, phone (505) 766–1902 or FTS 474–1902.

Dated: September 24, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90–23206 Filed 10–1–90; 8:45 am]

BILLING CODE 8025–01–M

Region VI Advisory Council; Public Meeting; Texas

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Houston, will hold a public meeting at 12 noon on Tuesday, October 23, 1990, at the First City Financial Center, San Jacinto room, 13th floor, 1301 Fannin, Houston, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Rodney W. Martin, District Director, U.S. Small Business Administration, 2525 Murworth, suite 112, Houston, Texas 77054, phone (713) 660–4409.

Dated: September 24, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90–23207 Filed 10–1–90; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 1273]

Advisory Committee to United States Section International Commission for the Conservation of Atlantic Tunas; Partially Closed Meeting

The Advisory Committee to the United States Section of the International Commission for the Conservation of Atlantic Tunas will meet on October 15,1990, at the Department of Commerce Auditorium, 14th and Constitution Avenue, NW., Washington, DC, at 9:30 a.m. This session will discuss the ICCAT billfish program, swordfish preparations and workshop results, yellowfin tuna research needs, and a review of 1990 bluefin tuna preparations. In addition, the Committee will consider a report of the bluefin tuna fishery conducted in the U.S. and Canadian Zone and estimates of Japanese harvest of tunas, billfish, swordfish, and sharks in the Atlantic U.S. Exclusive Economic Zone (EEZ). A review of the South Atlantic Fishery Management Council's Amendment I to the Swordfish Management Plan will also be discussed, as well as the U.N. General Assembly Resolution on Driftnets and related matters. The session will be open to the public.

The Advisory Committee will also meet at 9:30 a.m. on October 16, 1990. These sessions will not be open to the public inasmuch as the discussion will involve classified matters pertaining to the United States' negotiating position to be taken at the Annual Meeting of the International Commission for the Conservation of Atlantic Tunas to be held in Madrid, Spain, November 12–16, 1990. The members of the Advisory Committee will examine various options for the negotiating position at the Special Meeting, and these considerations must necessarily involve review of classified matters. Accordingly, the determination has been made to close this session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I, section 10(d) and 5 U.S.C. 552b(c)(1) and (c)(9).

Requests for further information on the meeting should be directed to Mr. Brian S. Hallman, Deputy Director, Office of Fisheries Affairs (OES/OFA), Room 5806, U.S. Department of State, Washington, DC 20520. Mr. Hallman can be reached by telephone on (202) 647–2335.

Dated: September 17, 1990.

R. Tucker Scully,

Acting Deputy Assistant Secretary, Oceans and Fisheries Affairs.

[FR Doc. 90–23189–Filed 10–1–90; 8:45 a.m.]

BILLING CODE 4710–07–M

TENNESSEE VALLEY AUTHORITY

Information Collection Under Review by the Office of Management and Budget (OMB); Paperwork Reduction Act of 1980, as amended by Public Law 99–591; Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Information Collection Under Review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), as amended by Public Law 99–591.

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Telephone: (202) 395–3084.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, Edney Building 4W 13B, Chattanooga, Tn 37402; (615) 751–2523.

Type of Request: Regular submission.

Title of Information Collection: Energy Center Feedback Form.

Frequency of Use: On occasion.

Type of Affected Public: State or local governments, non-profit institutions.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 100.

Estimated Total Annual Burden Hours: 50.

Estimated Average Burden Hours Per Response: .5.

Need For and Use of Information: The

Energy Center Feedback Form will provide data on the effectiveness of the TVA Energy Center's educational materials, exhibits, and programs. The data will be analyzed to determine what changes, if any, are needed to meet the Energy Center's educational objectives.

Louis S. Grande,

Vice President, Information Services Senior Agency Official.

[FR Doc. 90-23231 Filed 10-1-90; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-90-40]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 22, 1990.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No._____, 800 Independence Avenue, SW., Washington, DC, 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on September 25, 1990.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 26294
Petitioner: Douglas Aircraft Company
Sections of the FAR affected: 14 CFR 121.358
Description of relief sought: To allow American Airlines and Delta Airlines to operate pertinent aircraft without the required windshear equipment for 9 months after the mandatory compliance date of January 2, 1991.

Docket No.: 26297
Petitioner: Fairchild Aircraft Corporation
Sections of the FAR affected: 14 CFR 91.531(a)(3)
Description of relief sought: To allow petitioner to conduct its nonrevenue SA 227 commuter category operations with a single pilot rather than the two pilots required by the regulation.

Docket No.: 26298
Petitioner: North American Airlines
Sections of the FAR affected: 14 CFR 121.356(a).
Description of relief sought: To allow petitioner an extension of the December 31, 1991, date until June 30, 1992, by which its one Boeing 757 airplane must be equipped with an approved TCAS II traffic alert and collision avoidance system.

Docket No.: 26332
Petitioner: Learjet Inc.
Sections of the FAR affected: 14 CFR 47.65
Description of relief sought: To exempt petitioner from the citizenship requirement to allow issuance of a Dealers Aircraft Registration Certificate to petitioner.

Dispositions of Petitions

Docket No.: 26136
Petitioner: Air Methods Corporation International
Sections of the FAR affected: 14 CFR 135.213(b), 135.219, and 135.225 (a)(1) and (a)(2)
Description of relief sought disposition: To allow petitioner's pilots to make instrument flight rule instrument approach procedures at airports/heliports that do not have an approved weather reporting source. Denial, September 21, 1990, Exemption No. 5239

Docket No.: 26167
Petitioner: Ameriflight, Inc.
Sections of the FAR affected: 14 CFR 135.65(a)
Description of relief sought disposition: To allow Ameriflight to transport crewmembers and mechanics of other certificate holders on its cargo flights conducted under part 135. Denial, September 21, 1990, Exemption No. 5240

Docket No.: 070CE
Petitioner: Beech Aircraft Corporation
Sections of the FAR affected: 14 CFR 23.207(c)
Description of relief sought disposition: To amend Exemption No. 5077 to permit type certification of the Beech Model B300C airplane (a cargo door version of the Model B300) with a stall warning beginning at airspeeds greater than 10 knots or 15 percent above the stalling speed. Exemption No. 5077 applies only to the Beech Model B300. Grant, September 6, 1990, Exemption No. 5077A

[FR Doc. 90-23229 Filed 10-1-90; 8:45 am]

BILLING CODE 4910-13-M

[Special Committee 142]

Radio Technical Commission for Aeronautics (RTCA); Air Traffic Control Radar Beacon System/Mode Select (ATCRBS/MORE S) S Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C., Appendix I), notice is hereby given for the twenty-third meeting of RTCA Special Committee 142 on Air traffic control radar beacon system/mode select (ATCRBS/MODE S) S airborne equipment held October 23-24, 1990, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005, Commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of meeting agenda; (3) Review of comments to proposed change 3 (RTCA paper no. 153-90/SC142-267) to RTCA/DO-181; (4) Draft Revised Change 3 to RTCA/DO-181; (5) Other Business; (6) Date and Place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500,

Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 24, 1990.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 90–23227 Filed 10–1–90; 8:45 am]

BILLING CODE 4910–13–M

[Special Committee 162]

Radio Technical Commission for Aeronautics (RTCA); Aviation Systems Design Guidelines for Open Systems Interconnection (OSI); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C., Appendix I), notice is hereby given for the Thirteenth meeting of RTCA Special Committee 162 on Aviation Systems Design Guidelines For Open Systems Interconnection (OSI) held October 29–31, 1990, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005, Commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of minutes of the twelfth meeting Held July 16–18, 1990, RTCA Paper No. 261–90/SC 162–95 (previously distributed); (3) Reports of Working Group Activities; (4) Reports of related activities being conducted by other organizations; (5) Preparation of 1991 Committee Work Program; (6) Working Groups meet in separate sessions; (7) Other Business; (8) Date and Place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 24, 1990.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 90–23228 Filed 10–1–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: September 26, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB number: 1545–0256
Form number: IRS Forms 941C and 941C PR
Type of review: Revision
Title: Statement of Correct Information
Description: Used by employers to correct previously reported FICA or income tax data. It may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support a claim for refund credit or adjustment of FICA or income tax.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
Estimated number of respondents/recordkeepers: 958,050
Estimated Burden Hours Per Respondent/Recordkeeper:
Form 941C—7 hours, 25 minutes
Form 941C PR—5 hours, 59 minutes
Frequency of response: On occasion
Estimated total reporting/recordkeeping Burden: 7,138,944 hours
Clearance officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–23247 Filed 10–1–90; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

September 26 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearnace Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB number: 1512–0142
Form number: ATF F 2734 (5100.25)
Type of review: Extension
Title: Specific Export Bond-Distilled Spirits or Wine
Description: ATF F 2734 (5100.25) is used to ensure the payment of taxes on shipments of wine and distilled spirits. The form describes the taxable articles, the surety company, the specific conditions of the bond coverage and the persons that are accountable for tax payment.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated number of respondents: 1
Estimated burden hours per response: 1
Frequency of response: On occasion
Estimated total reporting burden: 1 hour
OMB number: 1512–0492
Form number: ATF REC 5000/24
Type of review:: Extension
Title: Alcohol, Tobacco and Firearms Tax Returns, Claims and Related Documents
Description: ATF Form 5000.24 is completed by persons who owe tax on distilled spirits, beer, wine, cigars, cigarettes, cigarette papers and tubes, snuff and smoking tobacco (pipe). The return is prescribed by law for the collection of these taxes. ATF uses the form to identify the taxpayer, the premises and period covered by the tax return, taxpayer's liability, and adjustments affecting the amount paid.
Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Small businesses or organizations
Estimated number of respondents: 506,189

Estimated burden hours per response: 1 hour
Frequency of response: On occasion
Estimated total reporting burden: 1 hour
Clearance officer: Robert Masarsky (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB reviewer: Milo Sunderhauf (202) 395–6880, Office of Managemetn and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–23248 Filed 10–1–90; 8:45 am]

BILLING CODE 4310–31–M

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Public Law 92–463, that a meeting will be held at the U.S. Treasury Department in Washington, DC on October 29, 30 and October 31, 1990, of the following debt management advisory committee:

Public Securities Association
Treasury Borrowing Advisory Committee

The agenda for the Public Securities Association Treasury Borrowing Advisory Committee meeting provides for working sessions on October 29 and 30 and the preparation of a written report to the Secretary of the Treasury on October 31, 1990.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92–463, and vested in me by Treasury Department Order 101–05, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Public Law 92–463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of Title 5 of United States Code.

Dated: September 25, 1990.

Michael E. Basham,

Acting Assistant Secretary, (Domestic Finance).

[FR Doc. 90–23256 Filed 10–1–90; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 191
Tuesday, October 2, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL SCIENCE BOARD

DATE AND TIME: October 12, 1990, 8:30 a.m., Executive Closed Session; October 12, 1990, 8:45 a.m., Closed Session; October 12, 1990, 9:30 a.m., Open Session.

PLACE: National Science Foundation, 1800 G Street, NW., Room 540, Washington, DC 20550.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED AUGUST 16:

Friday, October 12, 1990

Executive Closed Session (8:30 a.m. to 8:45 a.m.)

1. Minutes—August 1990 Meetings.
2. NSB and NSF Nominees.
3. Future NSF Budgets.

Friday, October 12, 1990

Closed Session (8:45 a.m. to 9:30 a.m.)

4. Grants and Contracts.

Friday, October 12, 1990

Open Session (9:30 a.m. to 11:30 a.m.)

Swearing-in Ceremony for New NSB Members.

5. Proposed 1991 Award Review Exemptions.
6. Chairman's Report.
7. Minutes August 1990 Meetings.
8. Director's Report.
9. Detection of Gravtational Waves.
10. Other Business.

Thomas Ubois,
Executive Officer.
[FR Doc. 90-23421 Filed 9-28-90; 3:31 pm]
BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Wednesday, October 10, 1990.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first three items are open to the public. The last two items are closed under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

1. Safety Recommendations: "Most Wanted" Program.
2. Marine Accident Report: Engineroom Fire Aboard U.S. Tankship *Charleston,* Coast of South Carolina, March 7, 1989.
3. Marine Accident Report: Sinking of the U.S. Tug *Barcona* by the U.S. Navy Nuclear Attack Submarine U.S.S. *Houston,* San Pedro Channel, California, June 14, 1989.
4. Opinion and Order: Administrator v. Mardirosian, Docket SE-8746, disposition of respondent's appeal.
5. Opinion and Order: Administrator v. Friesen and Ashcraft, Dockets SE-9404 and 9401; disposition of respondent's appeals.

News Media Contact: Alan Pollock 382-6600.

FOR MORE INFORMATION CONTACT: Bea Hardesty (202) 382-6525.

Dated: September 28, 1990.

Bea Hardesty,
Federal Register Liaison Officer.
[FR Doc. 90-23430 Filed 9-28-90; 3:53 pm]
BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 1, 8, 15, and 22, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 1

Monday, October 1

2:00 p.m.—Briefing on Conformity of Guidance on Low Level Waste Disposal Facilities With Requirements of 10 CFR Part 61 (Public Meeting)

Tuesday, October 2

1:00 p.m.—Affirmation/Discussion and Vote (Public Meeting)
a. Petitions of Intervene and Requests for Hearing in Shoreham Operating License Amendment Proceeding

Week of October 8 (Tentative)

There are no Commission meetings scheduled for the week of October 8.

Week of October 15 (Tentative)

Monday, October 15

10:00 a.m.—Briefing on Regulatory Impact Survey Recommendations (Public Meeting)
2:00 p.m.—Briefing on Decoupling Siting Requirements From Future Designs and Update of Source Term Matters (Public Meeting)

Wednesday, October 17

11:30 a.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 22 (Tentative)

Thursday, October 25

10:00 a.m.—Periodic Briefing on Industry Implementation of Generic Safety Issues (Public Meeting)

Friday, October 26

10:00 a.m.—Briefing on NUMARC's Perspective of the State of the Nuclear Industry (Public Meeting)
11:30 a.m.—Affirmative/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are essentially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings, call (Recording)—(301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (303) 492-1661.

Dated: September 27, 1990.

William M. Hill, Jr.,
Office of the Secretary.
[FR Doc. 90-23366 Filed 9-28-90; 12:57 pm]
BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 55, No. 191
Tuesday, October 2, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 151

[Docket 90-023]
RIN 0579-AA30

Importation of Certain Animals, Poultry, Animal and Poultry Products, and Animal Embryos

Correction

In rule document 90-17541 beginning on page 31484 in the issue of Thursday, August 2, 1990, make the following correction:

§ 151.7 [Corrected]

On page 31562, in the third column, in amendment number 14 for § 151.7, in the first line, "§ 151.7a" should read "§ 151.7(a)".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Decision of Panel

Correction

In the notice appearing on page 38375 in the issue of Tuesday, September 18, 1990, the Federal Register document number in the third column, at the end of the document should read "FR Doc. 90-22006".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 900798-0235]

RIN 0648-AD59

Snapper-Grouper Fishery of the South Atlantic

Correction

In proposed rule document 90-22415 beginning on page 39023 in the issue of Monday, September 24, 1990, in the third column, under **DATES**, in the second line, "October 18, 1990." should read "November 2, 1990."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-010-00-4212-14; IDI-6872, IDI-27435]

Termination of Recreation and Public Purposes Classification and Realty Action; Direct Sale of Public Land in Canyon County, ID

Correction

In notice document 90-22297 beginning on page 38755 in the issue of Thursday, September 20, 1990, in the third column, under **SUMMARY**, in the eighth line, "W½SW¼NE½" should read "W½SW¼NE¼".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

Consumers Power Co., (Big Rock Point Plant), Exemption

Correction

In the notice beginning on page 38422 in the issue of Tuesday, September 18, 1990, the Federal Register document number appearing on page 38424, in the sixth line of the second column should read "FR Doc. 90-22030".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Gaurd

46 CFR Part 91

[CGD 85-099]

RIN 2115-AC42

Navigation Bridge Visibility

Correction

In rule document 90-18487 beginning on page 32244 in the issue of Wednesday, August 8, 1990, make the following correction:

§ 91.55-5 [Corrected]

On page 32248, in the second column, in § 91.55-5 the paragraph designated (1) should be designated (i).

BILLING CODE 1505-01-D

federal register

Tuesday
October 2, 1990

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 61, et al.
Advanced Qualification Program; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 63, 65, 108, 121, and 135

[Docket No. 25804, Amdt. Nos. 61-88, 108-8, 121-219, 135-37; SFAR-58]

RIN 2120 AC 85

Advanced Qualification Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Special Federal Aviation Regulation (SFAR) establishes a voluntary, alternative method for the training, evaluation, certification, and qualification requirements of flight crewmembers, flight attendants, aircraft dispatchers, instructors, evaluators and other operations personnel subject to the training and qualification requirements of 14 CFR parts 121 and 135. The FAA has developed this alternative method in response to recommendations made by representatives from the government, airlines, aircrew professional organizations, and airline industry organizations. The SFAR is designed to improve aircrew performance and allows certificate holders that are subject to the training requirements of parts 121 and 135 to develop innovative training programs that incorporate the most recent advances in training methods and techniques.

EFFECTIVE DATE: October 2, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. David Catey, Air Carrier Branch, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8094.

SUPPLEMENTARY INFORMATION:

Background

On February 22, 1989, the FAA issued Notice of Proposed Rulemaking (NPRM) 89-4 (54 FR 7670). This notice proposed to establish a voluntary, alternative method for meeting the training, evaluation, certification, and qualification requirements for flight crewmembers, flight attendants, aircraft dispatchers, instructors, evaluators and other operations personnel subject to the training and qualification requirements of 14 CFR parts 121 and 135.

Statement of the Problem

14 CFR parts 61, 63, 65, 108, 121, and 135 contain the Federal Aviation Regulations that regulate air carrier training programs and the training and qualification requirements, including applicable certification requirements, for pilots, flight instructors, check airmen and other evaluators, flight crewmembers other than pilots, aircraft dispatchers, and other operations personnel. The most detailed and rigorous training and qualification requirements are contained in subparts N and O of part 121. The last comprehensive changes to subparts N and O were made in Amendment 121-55 issued on December 22, 1969 (35 FR 84, January 3, 1970). Current requirements do not reflect recent advancements in aircraft technology or advancements in training methods and techniques. Certain regulations regarding training, checking, and testing of persons who conduct or support airline operations of advanced technology aircraft are becoming obsolete. The FAA has been accommodating air carrier training needs by issuing exemptions to current training program requirements.

Programmed hours (i.e., the hours of training prescribed in the regulation) in the current regulations are not conducive to the most efficient use of new training methods. In addition, current certification practical test requirements no longer provide for a complete evaluation of the knowledge and skills needed to operate certain new aircraft.

Of special importance is the consensus among industry and government that training should emphasize crew coordination and the management of crew resources. Traditionally, airline training and checking has been weighted toward the pilot in command (PIC) with less stringent requirements for the other crewmembers. This has led to training and checking of pilots on an individual basis, in an environment that is not crew-task oriented. Furthermore, flight crewmember training historically has focused on flying skills and systems knowledge while neglecting factors such as communication skills, coordination and decision making.

Evidence accumulated in the last decade suggests that a high percentage of air carrier incidents and accidents have been caused, at least in part, by a failure of the flightcrew to use readily available resources. National Aeronautics and Space Administration (NASA) studies which were performed over the last ten years indicate that more than 60% of fatal air carrier accidents were not directly related to mechanical failure or lack of pilot skills but rather to a breakdown in cockpit communication. These NASA studies emphasize a deficiency in present recurrent training in skills related to human factors.

The name given to these skills is Cockpit Resource Management (CRM). CRM is generally understood to be the effective use of all resources available to the crew—hardware, software, and all persons involved in aircraft operation—to achieve safe and efficient flight operations. While some airlines have developed CRM programs, certainly not all who could benefit from such programs are doing so. Many who would like to incorporate such training need guidance in developing CRM programs.

In June of 1988, the National Transportation Safety Board (NTSB) issued a Safety Recommendation (A-88-71) on the subject of CRM training. The recommendation stemmed from an NTSB accident investigation of a Northwest Airlines crash on August 16, 1987, in which 148 passengers, 6 crewmembers, and 2 people on the ground were killed.

The NTSB noted that both pilots had received single-crewmember training during their last flight simulator training and proficiency checks and that the last CRM training they had received was 3.5 hours of ground school (general) CRM training in 1983. As a result of its investigation, the NTSB recommended that all part 121 carriers:

> Review initial and recurrent flightcrew training programs to ensure that they include simulator or aircraft training exercises which involve cockpit resource management and active coordination of all crewmember trainees and which will permit evaluation of crew performance and adherence to those crew coordination procedures.

History

On August 27, 1987, the then FAA Administrator addressed the chief pilots and certain executives of numerous air carriers at a meeting held in Kansas City. One of the issues discussed at the meeting focused on flight crewmember performance issues. This meeting led to the creation of a Joint Government-Industry Task Force (Joint Task Force) on flight crew performance comprised of representatives from major air carriers and air carrier associations, flight crewmember associations, commuter air carriers and regional airline associations, and government organizations.

The major substantive recommendations to the Administrator from the Training Working Group of the Joint Task Force were the following: (1) Require part 135 commuters whose airplane operations require two pilots to

comply with part 121 training, checking, qualification, and recordkeeping requirements. (2) Provide for a Special Federal Aviation Regulation (SFAR) and Advisory Circular (AC) to permit development of innovative training programs. (3) Establish a National Air Carrier Training Program Office to provide training program oversight at the national level. (4) Require seconds in command (SICs) to satisfactorily perform their duties under the supervision of check airmen during operating experience. (5) Require all training to be accomplished through a certificate holder's training program. (6) Provide for approval of training programs based on course content and training aids rather than using specific programmed hours. (7) Require Cockpit Resource Management (CRM) training and encourage greater use of Line-Oriented Flight Training (LOFT).

In response to the Joint Task Force recommendation to provide for an SFAR and AC to permit development of innovative training programs, the FAA issued a draft AC and a Notice of Proposed Rulemaking (54 FR 7670, February 22, 1989). The proposed SFAR and AC provided for a voluntary, alternative method for meeting the training, evaluation, certification, and qualification requirements in parts 61, 63, 65, 121, and 135. This voluntary, alternative method is called an "Advanced Qualification Program" (AQP). In effect, the proposed and final SFAR would allow a certificate holder to establish an AQP with training curriculums that depart from current requirements and that take advantage of the most advanced training techniques as long as its AQP meets the SFAR requirements and provides at least an equivalent means of compliance with current regulations in all categories of training and in all subject categories (e.g., windshear and emergency training). Because an approved AQP will build on the present system, it will be as safe as or an improvement on the safety level of the current system. The FAA considered all comments on the proposed SFAR and AC in developing this final rule and the accompanying AC.

Related Advisory Circulars

In addition to the AQP AC developed as part of this rulemaking a number of other Advisory Circulars are relevant and are referred to throughout this document. They are:

AC 120–51 Cockpit Resource Management Training.
AC 120–35A Line Operational Simulations.
AC 120–40 Airplane Simulator Qualification.
AC 120–45 Airplane Flight Training Devices Qualification.

Reorganization of Final Rule

As proposed, section 3 of the SFAR contained almost one-third of the text. For ease of usage, this text is dealt with in sections 3 through 6 of the final rule. Throughout the following discussion of comments, the proposed rule section is referred to when describing comments and the final rule section is referred to where appropriate.

Discussion of Comments

General

Twenty-six persons or organizations submitted comments on the proposed SFAR and the AC. Many submitted multiple comments. Comments were submitted by air carriers, air carrier associations, crewmember associations, commuter and regional airline associations, pilot training centers, equipment manufacturers, and individuals.

Virtually all of the commenters commend the FAA for taking rulemaking action that would allow for innovation in training and encourage CRM training. Most of the commenters raise specific concerns about the proposed SFAR and the draft AC. A discussion of the issues raised by commenters follows.

Task Force Recommendations

The preamble to the proposed SFAR stated that the Joint Task Force recommendations were separated into those that should be incorporated in an SFAR and those that would be incorporated in subsequent rulemaking actions. Five commenters state that the Joint Task Force recommendations were meant to be taken as a whole.

Response: The preamble statement was incorrect. The FAA chose to proceed immediately with the SFAR because the agency lacks the resources to implement all of the Joint Task Force recommendations at once. Also, information obtained from the voluntary programs implemented under the SFAR would be of value to the agency in determining the need for future changes to parts 121 and 135. The FAA will proceed with the other recommendations as resources permit.

Inclusion of Hazardous Materials and Security Training

The preamble to the proposed SFAR stated that, to avoid duplication of effort, an AQP would not be applicable to the training requirements in two specific areas, security training for crewmembers under 14 CFR 108.23 and 121.417(b)(3)(v) and 135.331(b)(3)(v) and hazardous materials training under 121.433a and 135.333. Regarding security training, the FAA stated that efforts were underway to provide an alternative training method similar to the methods proposed under the SFAR. Regarding hazardous materials training, the FAA stated that current requirements already reflected the content-based approach proposed in the SFAR for other training.

Seventeen commenters object to the exclusion of hazardous materials and security training from an AQP. Commenters state that, since current requirements regarding hazardous material and security training require a 12-calendar month cycle, if these areas of training are not included in the rule, far less economic incentive exists to establish an AQP. As one commenter states, an important feature of the SFAR is that higher quality training and appropriate safeguards will allow an increase in the time interval between training sessions beyond the 12-calendar month recurrent training currently required in these two areas. Therefore, if these areas of training are not covered under an AQP, 12-calendar month recurrent training in these areas would remain mandatory and destroy the flexibility and economic incentive for an AQP.

Response: The FAA has reconsidered the proposed exclusion and agrees with the commenters. Hazardous materials and security training will be included under an AQP. Section 208.23(b) concerning security training has been revised to allow for this. The AQP AC has been amended accordingly.

Section 108.23(b) has also been revised to allow flexibility for security training that is conducted under 121.417 or 135.331. Whenever a crewmember who is required to take recurrent security training completes the training in the calendar month before or the calendar month after the calendar month in which that training is required, he is considered to have completed the training in the calendar month in which it was required. This amendment is not related to AQP which otherwise provides the same flexibility for recurrent training. This amendment is being included to allow certificate holders the same flexibility in scheduling recurrent security training as they now have in scheduling other recurrent training under current 121.417 and 135.33.

Planned Hours

Proposed section 3(b)(1) stated that a qualification curriculum must include "planned hours of ground instruction, flight instruction * * * and evaluation." The planned hours would replace programmed hour requirements in part 121 subpart N and, thereby, provide more flexibility while maintaining a concept of appropriate training time needed to cover specific areas of training.

Five comments were received on this subject. One commenter questions whether the term "planned hours" refers only to ground instruction or also to flight instruction. One commenter states that programmed hours should be required to guarantee a minimum level of training. Two commenters state that hourly requirements should not exist and that all training should be objective based. One commenter states that at least planned hours should be required.

Two comments were also received on a related issue. Paragraph 71 of the draft AQP AC states that if an individual is evaluated and does not pass, the individual must complete the planned hours of the curriculum. According to the comments, this appears to be a penalty rather than an effort to train to proficiency.

Response: The "planned hours" in proposed section 3(b)(1) (final rule section 5(a)) refers to both ground training and flight training. The AQP must state how many hours are planned for each type of training; however, in both cases, the training is objective based and, therefore, the number of hours needed for a particular student is flexible—it may take more or fewer hours than what is planned for that curriculum. Ground training continues until the student can show that he or she has mastered the material. Similarly, flight training continues until the student can show that he or she has progressed successfully through the curriculum and demonstrates proficiency in the knowledge and skills needed to serve in a specific crew position for a specific make, model, and series aircraft (or variant). The AQP AC has been rewritten to clarify the requirement.

In response to the related comment on paragraph 71 of the draft AC, the FAA has changed the AQP AC language (paragraph 38(h)) to remove the apparent penalty. If an individual fails a proficiency evaluation, that individual should complete additional training as needed before being administered another proficiency evaluation.

Crew and Aircraft Curriculum Requirements

The proposed SFAR would require that each AQP curriculum specify the make, model, and series aircraft (or variant) and each crewmember position or other position to be covered by the curriculum. Positions to be covered include all flight crewmember positions, instructors, and evaluators, and may include other positions, such as flight attendants, aircraft dispatchers, and other operations personnel.

Nine comments pertain to this requirement. Several commenters state that fleet specific curriculums should not apply to flight attendants and aircraft dispatchers. Several commenters state that differences between variants of a make, model, and series aircraft should be handled by a different curriculum rather than having each curriculum specific to a variant as appropriate. One commenter states that only pilot crewmembers should be included in mandatory participation, and flight engineers should be excluded, since flight engineer training events and devices are different from those for pilots. One commenter states that eliminating traditional categories of training (initial, transition, etc.) will require the same training regardless of previous experience. One commenter requests that flight attendants be included in AQPs as soon as possible. Another requests that an AQP be allowed to cover only flight attendants or aircraft dispatchers.

A related comment concerns elimination of aircraft "groups" in the AQP. This comment states that the "group" concept is still applicable to portions of the AQP AC that refer to specific category/class and powerplants.

Response: The requirement that an AQP curriculum is specific to make, model, series aircraft (or variant) and to duty positions of crewmembers is retained in the final rule as is the provision that it may apply to flight attendants, aircraft dispatchers, and other operations personnel. The curriculum must apply to all flight crewmembers, including flight engineers, in order to incorporate CRM training effectively. It could not apply only to aircraft dispatchers and flight attendants, since a main purpose of an AQP is to develop training programs that emphasize crew coordination. While the FAA agrees with comments regarding the importance of including flight attendants and aircraft dispatchers in an AQP and encourages certificate holders to do so, it is requiring that an AQP apply to flight crewmembers since CRM training for flight crewmembers is the most urgent need. Furthermore, the studies and research being done in CRM have focused primarily on cockpit communications and coordination.

All qualification and continuing qualification curriculums must be aircraft specific because of differences among make, model, and series aircraft (or variant). These differences apply to flight attendants and aircraft dispatchers as well as to flight crewmembers. An AQP establishes proficiency objectives that are aircraft and duty position specific. A certificate holder would be required to establish a separate curriculum for a variant of a make, model, or series aircraft if the FAA determines that knowledge or skills required for safe operation are significantly different and, therefore, require a certificate holder to provide additional training or other qualifications for crewmembers and dispatchers who operate the variant aircraft. For example, if an individual moves from one aircraft to another, to a variant design configuration of an aircraft make, model, and series, or from one crewmember position to another, that individual would be subject to the qualification requirements of the specific curriculum. However, an individual would not be required to repeat any common requirements of curriculums in which he or she has already achieved proficiency. The AQP would allow the certificate holder to select from a curriculum those modules for which the individual must achieve proficiency to be qualified under a specific curriculum. Hence, the concept of an aircraft- and duty position-specific curriculum incorporates traditional differences and transition training. The AQP does not require redundant training where proficiency has already been achieved.

The FAA's purpose as stated in the preamble to the proposed SFAR is to eliminate all references to aircraft groups as defined in § 121.400. The AC contains no such references.

Frequency of Training

The proposed SFAR in Section 3(c)(1) would require continuing qualification curriculums which must include a continuing qualification cycle with, initially, a 26-calendar month limit. During this continuing qualification cycle, each person qualified under an AQP must receive a balanced mix of training and evaluation in all events and subjects that were required for original qualification. The continuing qualification cycle duration may be

extended by approval of the Administrator in 39-calendar month increments to a maximum cycle of 39 calendar months.

Under the proposal, each continuing qualification cycle must include recurring training sessions at a training facility for each person qualified under an AQP. The frequency of the sessions must be approved by the Administrator. Initially, the frequency could not exceed 13 months. Thereafter, upon demonstration that an extension is warranted, the Administrator could approve an extension in 3-month increments to a maximum of 26 months.

Seventeen comments were received on these proposed requirements, specifically on (1) the interval between recurring training sessions; (2) the overall duration for a continuing qualification cycle; and (3) the maximum 3-calendar month increments by which the intervals between recurring training sessions and the duration of continuing qualification cycles could be extended.

- Several commenters object to the 3-calendar month increment limit on extensions, stating that 6 calendar months would be more reasonable given the effort required to prove that an extension is warranted. Some commenters want no limit on increments for extending the intervals between recurring training sessions and the duration of continuing qualification cycles.
- Some commenters want no limits on continuing qualification cycles or the intervals between training sessions. They prefer that recurrent training be based solely on maintaining proficiency as evaluations indicate a need.
- Some commenters maintain that the 3-calendar month increment was too conservative since carriers have obtained exemptions that extended recurrent qualification steps by 6 calendar months, without any degradation in safety.
- Several commenters, including pilot and flight engineer associations, object to extending recurrent qualification limits.
- Several commenters are concerned that justifying an extension might be hard to do. These commenters are uncertain how they would show no loss of knowledge or skills. Other commenters question how air carriers could demonstrate no degradation in safety. One commenter believes that the FAA should eliminate extension provisions from the SFAR until the FAA has established rigid criteria for approving extensions.
- Specific issues concerning continuing qualification are (1) whether the requirements for recurrent training at a facility preclude home study; (2) whether new hires and new aircraft would be treated more restrictively; and (3) whether the language in proposed § 3(c)(1) should be changed from "the frequency of these recurring sessions" to "the intervals between recurring sessions."

Response: With a minor exception, the final rule retains the continuing qualification cycle duration as proposed. None of the comments raise significant issues that would warrant changes to the proposed requirements. The initial maximum limit on the duration of intervals between recurring training sessions is basically the minimum requirement in part 121 and part 135 now, including the exemptions issued for PIC proficiency checks.

However, the rule language and the AQP AC have been revised to clarify the relationship of the duration of the continuing qualification cycle and the maximum duration of the interval allowed between training sessions.

The final rule (Section 6(b)(1)) states that each continuing qualification cycle must include at least one evaluation period. During an evaluation period each person qualified under an AQP must receive at least one training session at a training facility. Also, each person qualified under an AQP must complete a proficiency evaluation as required under SFAR Section 6(b)(3), and each PIC must complete an online evaluation as required under SFAR Section 6(b)(3). An individual's proficiency evaluation may be accomplished over several training sessions if a certificate holder provides more than one training session in an evaluation period.

Section 6(c) states the duration of a continuing qualification cycle and evaluation period. Initially, a continuing qualification cycle may not exceed 26 calendar months, and the evaluation period may not exceed 13 calendar months. Increments for extending the duration and maximum limits remain as proposed.

The AQP AC has also been revised to be consistent with the SFAR and to provide guidance in structuring a continuing qualification curriculum in the interest of efficiency and safety. In accordance with the methodology for curriculum development recommended in the AQP AC, proficiency objectives to be evaluated during a cycle may be divided between critical and non-critical proficiency objectives. All critical proficiency objectives, as approved by the Administrator, would have to be evaluated within an evaluation period, while non-critical proficiency objectives could be evaluated periodically over the longer duration of the continuing qualification cycle. While this level of detail is not specified in the rule, the rule language allows for more efficient structuring of evaluation curriculum segments.

The purpose of a continuing qualification cycle is to provide flexibility with reasonable time limits. If either an evaluation period or a continuing qualification cycle is extended by 3 calendar months with approval by the Administrator, and proficiency evaluations thereafter indicate no loss of proficiency, then the extension is more efficient without any degradation in safety. If there is a loss of proficiency, then the certificate holder would resume its previous frequency for recurrent training and proficiency evaluation.

Concerns of commenters regarding justification for extension of an evaluation period or continuing qualification cycle are unfounded. Rigid criteria for approval of an extension are not necessary, since analysis of data collected from training and from evaluations required by the SFAR will provide continuous monitoring of the proficiency of the persons being trained and evaluated. No extensions will be approved unless collected data supports justifying an extension. The FAA considers the 3-month limit on extensions appropriate for careful monitoring of the effect of an extension on proficiency. Since an applicant will be continuously collecting proficiency data, the 3-month limit does not impose an unreasonable burden.

In response to specific comments: (1) The requirements for training under a continuing qualification curriculum do not preclude home study as long as home study has been approved as part of an AQP curriculum; (2) new hires and new aircraft would be treated more restrictively as indicated in the AQP AC, since neither the certificate holder nor the FAA in such cases would have a valid basis to justify extending evaluation periods or continuing qualification cycles; (3) the concept of evaluation periods corrects the terminology problem in "frequency of recurring sessions."

Data Collection and Recordkeeping

Proposed SFAR Section 4(c) would require that each qualification and continuing qualification curriculum include data collection procedures. Data collected from crewmembers, instructors, and evaluators will enable the FAA to determine whether the training and evaluations accomplish the overall objectives of the curriculum.

Acceptable guidelines for data collection are set forth in the AC. Proposed Section 9 would require that an applicant for an AQP establish and maintain records in sufficient detail to establish the training, qualification, and certification of each person qualified under an AQP. The AC specifies acceptable guidelines for establishing and maintaining such individual records.

As proposed and in the final rule, data collection and recordkeeping are two separate functions. The data submitted to the FAA for analysis and validation must be submitted without names or other elements that would identify an individual or group of individuals. This data will be analyzed by the FAA to monitor the effectiveness of AQP training, to determine the validity of requests for extensions of training intervals and cycles, and to monitor the effectiveness of CRM training. Individual recordkeeping by certificate holders is needed to show whether or not each crewmember, aircraft dispatcher, or other operations personnel complies with the applicable requirements of the FAR and this SFAR; e.g., qualification training, qualifications, required physical examinations, flight and duty time records, and frequency of training and evaluation.

Twelve comments were received on data collection and recordkeeping. Generally these comments show concern that the burden of data collection and recordkeeping might offset any advantages of participating in an AQP.

Response: There can be no AQP without data collection and without records on individual crewmembers, aircraft dispatchers, and other operations personnel. The FAA can only evaluate the validity of a certificate holder's AQP through the collection of data. The certificate holder must collect the data and make that data accessible, without identifying individuals, to the FAA's Air Carrier Training Branch for analysis and evaluation. The individual crewmember, aircraft dispatcher, and the other operations personnel records are to be maintained by a certificate holder, because without them there would be no record of these persons' qualifications and continuing qualifications. Thus, the requirement for individual records that must be maintained under an AQP remains the same as under present § 121.663.

The data collection requirements and recordkeeping requirements (final rule Sections 7(c) and 12) are the same as those proposed; however, the AC (Chapter 9) has been rewritten in light of specific comments to clarify the overall program validation purpose of data collection and recordkeeping functions and to establish an acceptable approach for meeting the requirements. The AC provides guidance for validation of an AQP through approval and documentation of activities throughout the development, implementation, and continuing operation of an AQP; FAA analysis and evaluation of anonymous performance/proficiency data collected by the applicant; and establishment and maintenance of individual qualification records.

Specific comments relating to data collection and recordkeeping requirements and FAA responses are as follows:

• *Comment:* Data may be used in a punitive way against an airman. *Response:* The data submitted to the FAA for analysis must not be traceable to an individual. This point has been clarified in the AC.

• *Comment:* Once a program has been validated, data should be destroyed. *Response:* The FAA is not requiring that data be destroyed after validation. Since the data is not identified by individual, destruction of it after some point would be a matter of efficiency, and does not need to be regulated.

• *Comment:* Data collection requirements should provide a method for a trainee (and instructor) to show to the approving authority his or her perception of the effectiveness of an AQP. *Response:* The FAA agrees that this would be worthwhile. A certificate holder may use an anonymous questionnaire to accomplish this. The FAA is not specifically requiring this feedback method because it is only one of many methods for evaluating a program.

• *Comment*: It may be impossible to show by data collection and analysis that an AQP curriculum maintains or exceeds past levels of crewmember competency. *Response*: The FAA recognizes that raw data alone may not indicate clearly whether an AQP curriculum maintains or exceeds past levels of crew competency. However, the FAA believes that, when analyzed, the data collected by the certificate holder will indicate trends and will provide the basis for making necessary judgments about the effectiveness of an AQP program.

• *Comment*: Once a program is validated, the data requirements should be reviewed to determine if continued collection is needed. *Response*: The FAA agrees and will do so.

• *Comment*: Duplication of recordkeeping will occur if the training center and certificate holder are both required to maintain records on airmen. *Response*: The certificate holder is responsible for ensuring that adequate records will be established and maintained. The training center could be authorized to maintain such records under the supervision of the certificate holder. Thus, duplicate records are not required.

• *Comment*: Certificate holders should not be required to keep records on training center airmen. *Response*: Neither the SFAR nor the AC requires them to do so.

• *Comment*: Certificate holders who have an approved computerized recordkeeping system under part 121 should not be required to establish a separate system. *Response*: The FAA will not automatically approve any particular computerized systems under the SFAR. However, the FAA will accept automated systems provided they adequately follow AQP AC guidelines. In some cases this may require enhancement of an existing system.

• *Comment*: The FAA should state why present basic records are not sufficient. *Response*: Present basic recordkeeping requirements are not based on proficiency training and evaluation within a continuing qualification cycle. Therefore, some changes are needed. However, the AQP recordkeeping requirements are fundamentally the same as the present requirements.

• *Comment*: Only training records should be maintained, not flight time records. *Response*: The specific reference to flight time records has been deleted from the AC (paragraph 182) since a certificate holder may choose to keep flight time records in another system while maintaining currency records in the AQP recordkeeping system. Records that pertain to qualification and continuing qualification must be maintained. This includes currency records, since currency is part of continuing qualification. Flight time records are currently required in accordance with §§ 121.683 and 135.63. The AQP SFAR recordkeeping requirements do not establish new requirements for a separate recordkeeping system for certificate holders who conduct both training and qualification in accordance with the requirements of part 121 or part 135 and the requirements of the AQP SFAR. However, in such cases a certificate holder may elect to maintain a separate recordkeeping system. With respect to flight time records, regardless of whether or not a certificate holder elects to conduct its crewmember training and qualification under an AQP

or under typical part 121 or part 135 training programs, it must maintain flight time records for applicable crewmembers in sufficient detail to show compliance with the applicable FAR.

• *Comment*: In the AQP AC, the record requirements mix personnel and scheduling records with training records. *Response*: The FAA does not agree that AQP AC does this. The AQP AC provides guidance for one means of compliance with AQP SFAR requirements and related FAR requirements. A certificate holder may develop an alternative means of compliance if it can show that the alternative means of compliance is equivalent to that described in published advisory material.

• *Comment*: The requirement in the draft AC that records for individuals who qualify under an AQP be maintained for 36 calendar months is too restrictive. *Response*: The AQP SFAR recordkeeping requirements do not provide for a particular retention period for these persons' individual records. Section 12 of this SFAR states, in pertinent part, that each certificate holder shall show that it will establish and maintain records in sufficient detail to establish the training, qualification and certification of each person qualified under an AQP. In addition, the AQP AC does not provide for a particular retention period for these records. The AQP AC merely provides guidance to certificate holders on how to document in these persons' individual records that they are qualified under an AQP. The 36 calendar-month records retention period in the AQP AC is merely a guideline. However, it should be noted that certificate holders who elect not to retain detailed individual records may lose some of the flexibility and efficiency that AQPs are capable of providing.

• *Comment*: Draft AQP AC paragraph 116(2) should indicate that the format of an AQP record will differ from the record of an airman who qualified for a position under a subpart N training program. *Response*: There is no reason to mention format differences in the AC. The guidance paragraph in question states only that records should "show the result and completion date of other training and qualification that permitted an individual to advance to his current assignment." (Paragraph 184(c) of final AC.) The format of these other records may or may not differ from AQP records format.

CRM

Section 4(b) of the proposed SFAR (final rule section 7(b)) states that "each curriculum must include training and evaluations" in CRM skills. Fourteen of the comments address the subject of CRM, and while none of these commenters objects to the inclusion of CRM in an AQP, most raise questions concerning the specifics of CRM training. Five commenters object to the requirement for evaluation of CRM training. These commenters maintain that objective criteria for evaluating CRM have not been established and further that CRM training is most effective in changing behavior when it is not evaluated.

Response: FAA has stated in the accompanying AQP AC nine elements that are appropriate in a CRM session. Initially, a participant in a CRM session would not be subject to a pass/fail decision. However, once data have been collected to validate the effectiveness of CRM training sessions, the FAA believes that objective criteria for evaluation can be developed. After that objective criteria is established, it will become part of qualification and continuing qualification curriculums. An evaluation of a CRM session will result in feedback to each participant and, as appropriate, additional individual or group training will be required.

One commenter provides suggestions concerning the availability of specific participant records and suggests several techniques that could be used to achieve maximum protection of individuals.

Response: While initially there will be no evidence in a person's file that could be interpreted as a failure of a CRM session, an individual's record would reflect that additional training in particular areas was considered necessary as a result of a CRM evaluation. However, once the FAA has developed objective criteria for evaluating CRM performance of an individual, the criteria will be used in determining whether an individual is qualified, including certification, and meets continuing qualification requirements. Thus, when CRM objective criteria are fully implemented, it will be possible for an individual to fail a CRM session.

Several of the commenters that generally support the inclusion of CRM training in each AQP suggest the need for regular renewal of CRM scenarios, and the need to make CRM a general requirement beyond the SFAR. Those commenters also suggest using the highest level of flight simulator for Line Operational Simulations and giving instructors and evaluators additional training in teaching and evaluating CRM and Line Operational Simulations.

Response: Imposing CRM as a general requirement would be beyond the scope of this rulemaking. While other suggestions are valid, the FAA does not agree that specific additional requirements should be added to the SFAR. The FAA expects that as certificate holders gain more experience in conducting CRM training, some of these suggestions may be incorporated into FAA advisory material.

PIC Online Evaluation

Proposed section 3(c)(4)(ii) states in part that for a PIC, "An online evaluation in an aircraft must be completed within 30 days of either side of the midpoint between recurring training sessions."

Nine comments were received on this proposed requirement. Most suggest that the provision for flexibility be based on the "calendar month before/calendar month after" concept now used generally in the FARs, since this provides greater flexibility and is easier to track under the systems already in use by most certificate holders. Several commenters also state that, as written, the proposal could require more frequent checks than under the present rules, since it requires an online evaluation at the midpoint between recurring training sessions.

Response: The FAA agrees that the "calendar month before/calendar month after" concept in the present rules could effectively be used here, and this section of the SFAR (section 6(b)(3)(ii)(A)) has been changed accordingly. This section has also been revised to clarify the FAA's intent that an online evaluation must occur at or near the midpoint of a PIC's evaluation period.

One commenter questions whether the FAA intends this requirement to replace the traditional line check requirement.

Response: The FAA's intent is that the required online evaluation would replace the line check. Because persons other than the PIC would be evaluated at the same time, the SFAR requirement is actually broader than the traditional line check.

A related issue raised by four commenters concerns section 3(c)(4)(iii), which proposed to require that during a PIC online evaluation, the second in command and flight engineer also must be evaluated. Commenters question (1) what criteria would apply to the flight engineer and SIC evaluations; (2) whether this is a new requirement; and (3) whether the evaluator would have to have a flight engineer rating in order to evaluate the flight engineer.

Response: This is a new requirement. Section 5(b)(3) of the SFAR states that evaluators must have appropriate training and evaluation to qualify a

person to evaluate on a particular make, model, and series aircraft (or variant). AC paragraph 40(c)(3)(ii), as clarified, states that "an evaluator for an online evaluation will hold the airman certificates and ratings for all individual positions being evaluated." The specific criteria for evaluating these other crew positions during the PIC online evaluation are not provided in the AC. This criteria will be developed by the certificate holder for FAA approval as part of the continuing qualification curriculum.

Certification under an AQP

Two commenters object to the limitation stated in the preamble that initially certification under proposed SFAR section 5 would be limited to pilots who hold a commercial pilot certificate with an instrument rating. One commenter states that it understood that the SFAR would also include certification for flight engineers and aircraft dispatchers.

Response: The rule language is not limited as assumed by the commenters. The preamble language referred to by these commenters states that initially certification under an AQP will be "limited to pilots who hold a commercial pilot certificate with an instrument rating, because the FAA has not yet developed appropriate criteria to serve as a basis for obtaining a commercial pilot certificate." However, the preamble further states that, until these criteria are developed, the FAA will review any certificate holder's request for commercial pilot certification under an AQP on a case-by-case basis. The FAA will also treat requests for flight engineer and aircraft dispatcher certification under an AQP on a case by case basis.

Proposed section 5(a) allows a person enrolled in an AQP to receive the required certificates or ratings under an AQP if certain requirements are met. One requirement is that "training and evaluation of required maneuvers and procedures under the AQP must meet minimum certification and rating criteria established by the Administrator * * *"

Five commenters thought that the criteria should be established by the certificate holder and approved by the Administrator.

Response: The language of § 8 of the final rule has been changed from required maneuvers and procedures "to knowledge and skills." The revised language is more appropriate since the regulation also applies to flight engineers and aircraft dispatchers. Also section 8(a) has been clarified to show that the applicant for certification must meet minimum certification and rating criteria in parts 61, 63, and 65. The Administrator may accept substitutes for the practical test requirements of those parts, as applicable. Guidelines for developing substitutes for the practical test are set forth in chapter 4 of the AC. The operator should show that substitute practical tests provide individual proficiency equivalent to or greater than that provided by the practical tests described in parts 61, 63, and 65 of the FAR.

One commenter expresses concern that the AQP would allow a flight engineer applicant who is the holder of a commercial pilot certificate with an instrument rating to satisfy the aeronautical experience or skill requirements of part 63 under an AQP and thereby reduce the requirements for a Flight Engineer certificate.

Response: The concern expressed is not valid; any certifications that occur under an AQP will meet the aeronautical experience requirements of part 63 and performance standards equivalent to or greater than existing standards, thus ensuring that there is no reduction in safety.

Flight Simulators and Flight Training Devices

Proposed section 6 stated that a person who wishes to use a flight training device or flight simulator must request that the Administrator evaluate the flight training device or flight simulator to assign a qualification level to it. Each flight training device or flight simulator to be used in an AQP must be evaluated for a certain qualification level and also approved for its intended use in a specified AQP. Furthermore, each flight simulator or flight training device must be part of a flight simulator or flight training device continuing qualification program. Specific guidelines for flight simulator and flight training device evaluation, approval, and continued qualification are set forth in the AQP AC.

Ten commenters address the issue of flight simulators and flight training devices. Only one commenter is in favor of the requirement as proposed. Certificate holders who commented are concerned that the draft AQP AC and the proposed SFAR would mandate more restrictive flight simulator requirements than those currently in effect. In general, these commenters express confusion about the FAA's intention, particularly since the preamble to the proposed SFAR states that the advisory material on approval and evaluation of flight simulators and flight training devices will appear either in the AQP AC or in ACs being developed by the FAA. The draft AQP AC lists as guidelines for evaluation AC 120–40 and AC 120–45. One commenter requests that since the AQP AC references the other ACs, drafts of the others should be published for public review. Commenters also raise technical questions referring to specific portions of the draft AQP AC.

Response: To clarify the FAA's intention, the final rule and the AC have been changed. Section 9 of the rule differentiates between: (1) Flight training devices and flight simulators that will be used in an AQP for: (a) Evaluation, (b) training sessions that assess whether an individual is ready for evaluation, (c) meeting currency requirements, or (d) Line Operational Simulations (LOS); and (2) training devices that are used for other than the purposes listed in (1) above.

Flight training devices and flight simulators to be used for any of the listed purposes must be evaluated by the Administrator and assigned a qualification level in accordance with the criteria set forth in AC 120–40, as amended, and AC 120–45, as amended.

Under these procedures, the FAA's National Simulator Program Manager (NSPM) will evaluate and, if warranted, recommend approval of a flight simulator or flight training device for a specific level of simulation. The recommendation will be submitted to the Air Carrier Training Branch for appropriate action. Final approval will include the level of simulation, the flight training maneuvers and procedures allowed for airman certification (training, currency, and evaluation), and the specific AQP in which it can be used. Levels of simulation that are hybrids of two levels contained in ACs 120–40 and 120–45 will be considered. All flight training devices and flight simulators that have been qualified and approved for a certificate holder's specific AQP use must also be part of, and maintained under, the certificate holder's continuing qualification program.

Training devices to be used in an AQP for other than the listed purposes must be approved by the Administrator. An applicant for approval of such a training device must identify the device by its nomenclature and describe how it would be used. If the device and its use are approved, the device must be part of a continuing program to provide for its serviceability and fitness to perform its intended functions as approved by the Administrator.

These training equipment requirements are for the most part a continuation of present policy on flight training devices and flight simulators.

Training devices and simulators currently qualified as flight training devices and flight simulators by the FAA may be used in approved AQPs at their current qualification level without completing an additional qualification evaluation.

The FAA does not consider the inclusion of detailed charts in the AQP AC as a limiting factor on the overall process. An applicant can assume that, for the listed maneuvers and procedures, the FAA has indicated a range of classification levels for flight training devices or flight simulators that is acceptable. However, as set forth in the AQP AC, an applicant continues to have the option of requesting approval of alternatives, whether or not these alternatives are within the range set forth in the AQP AC charts.

Incentive to Participate

Several commenters point out that since participation in an AQP is voluntary, certificate holders will participate only if opportunity for innovation is allowed. These commenters are concerned that the proposed SFAR and AQP AC are too structured. One commenter stresses the need for clarity in the regulations; another expresses a concern that excessive data collection requirements would discourage participation.

Response: The FAA agrees with the need for clarity in this, as in all of its regulations and has tried to simplify and clarify this final rule whenever possible. Similarly, the FAA has required, and will continue to require, as little paperwork, recordkeeping, and data collection as possible. However, since the ultimate success of the AQP concept will depend on the success achieved by those who sign up initially, the FAA will need data adequate to validate individual programs and the overall concept.

The FAA recognizes that the details contained in the draft AQP AC may have caused some commenters to conclude that AQP is highly structured and therefore might not allow for as much innovation as they envisioned. However, a certain amount of detail in the AC is imperative to provide eligible certificate holders with an opportunity to participate. The AC recommends methods and procedures at a level of detail enabling successful implementation. This does not prohibit some certificate holders from designing their own program in ways that depart from the acceptable methods and procedures contained in the AQP AC. The FAA can approve such a program as long as the applicant can show that the proposed AQP is consistent with the AQP SFAR requirements and that any deviation from the guidance contained in the AQP AC is acceptable.

The AC has been revised to provide more detailed guidance for an acceptable AQP development and maintenance methodology that will allow for innovation through systematic development and approval of an AQP.

Training Centers

Proposed SFAR section 8 and chapter 9 of the draft AQP AC establish requirements and acceptable standards for a certificate holder who uses a training center to conduct any of its AQP training, and requirements and acceptable standards by which a training center may obtain provisional approval of an AQP curriculum. Several commenters identify concerns with the proposed SFAR and AQP AC on this subject.

- One concern is that under the proposed SFAR only a certificate holder is eligible to obtain approval of an AQP, and many training centers are not certificate holders. One commenter requests that all references to a certificate holder throughout the SFAR include the additional words "or a training center that qualifies under this SFAR."
- One commenter states that the requirements in proposed section 8 (a) and (b) are basically directed at certificate holders, not training centers. Training centers that are not certificate holders need a prescribed method of training and qualifying airmen. Neither the existing regulations nor the proposed SFAR addresses this issue. Qualifying airmen employed by a training center by the same methods required for certificate holder airmen is not workable.
- According to one commenter, a non-certificate holder training center should be eligible for obtaining approval of extensions of its continuing qualification cycle. The proposed SFAR language limits extensions to certificate holders.
- One commenter thinks that qualifying training centers should be authorized to give AQP training only if the training is identified with a specific part 121 or part 135 certificate holder. Training in the certificate holder's AQP should be required for instructors and evaluators employed by the training center. Also a certificate holder should be required to provide differences training for any differences between a training center's training equipment and the certificate holder's.
- One commenter expresses concern that since the proposed SFAR restricts eligibility of certificate holders who operate under part 135 to those who are required to have an approved training program under § 135.341, all single-pilot certificate holders would be prevented from using an AQP. While such a certificate holder would probably not develop its own AQP, it might want to use a training center's AQP curriculum for a particular aircraft.

Response: Eligibility for an AQP is targeted to certificate holders who are required to have an approved training program under § 121.401 or § 135.341. Under Section 11(a) of the SFAR a certificate holder may arrange to have AQP training, qualification, or evaluation performed by a training center if the training center's curriculum (segments and portions of segments) have been provisionally approved by the Administrator. The final rule makes clear that a training center may obtain provisional approval either independently or ir conjunction with a certificate holder that is applying for an AQP.

A training center must apply for provisional approval and must show that it has: (1) A curriculum for qualification and continuing qualification for each instructor or evaluator employed by the training center; (2) adequate facilities for any planned training; (3) curriculums (segments or portions of) specific to make, model, and series aircraft (or variant), and specific to crewmembers or other positions. (Section 11(b)(1), (2), and (3)).

Once a training center's curriculum (segment or portion) has been provisionally approved, it must be tailored to a certificate holder's specific needs before it is eligible for approval as a certificate holder's AQP curriculum. (Section 11(a)(2)).

A training center is limited to provisional approval of a curriculum. The qualification and continuing qualification curriculum it develops for its instructors and evaluators must be approved and must provide instructor and evaluator qualifications for AQP training and evaluator duties but will not be considered an AQP curriculum. However, approval of instructor and evaluator curriculums will allow a training center to develop curriculums according to the AC guidelines and to utilize the AQP qualification and continuing qualification concepts. To clarify that AC guidance applies to training centers as well as certificate holders, the AC material now addresses, where appropriate, the "applicant" rather than the "certificate holder" or "operator."

The proposed section 8(b)(1) (now section 11(b)(1)) has been changed by

requiring an applicant for provisional approval to have a curriculum for instructors and evaluators, rather than an "approved" curriculum, since approval of a curriculum would be part of the provisional approval process.

The AC (Chapter 6) has been revised to provide guidelines to training centers in the methodology they should use to obtain provisional approval.

The SFAR does not require that each instructor or evaluator in a training center complete a full indoctrination program for each certificate holder for which the training center conducts training. Rather, a training center that provides training for a number of part 121 or part 135 certificate holders can develop a generic indoctrination program and specify the elements appropriate to each certificate holder. When the Administrator gives approval to a certificate holder to use a provisionally approved training center curriculum as part of the certificate holder's AQP, the Administrator's approval is equivalent to an "initial" approval under § 121.405 or § 135.325, as applicable.

The SFAR does not prevent a certificate holder that uses only one pilot in its operations under part 135 from developing a training program using the guidelines contained in the AQP AC (or using a training center's AQP-type program).

To clarify the status of training centers and training center employees, the applicability sections of both parts 121 and 135 (§§ 121.1 and 135.1) have been amended to make it clear that training centers and their employees are subject to the applicable rules of these respective parts when they seek to and actually perform services for certificate holders. Thus, a training center and its employees would be in much the same status as a maintenance facility that provides service to a part 121 or part 135 certificate holder. However, the fact that a training center can bring itself and its employees within the jurisdiction of part 121 or part 135 by seeking provisional approval of a curriculum does not make the training center a certificate holder nor does it ensure the training center that its services will be sought by a certificate holder. Furthermore, as indicated previously, provisional approval of a curriculum does not ensure that that curriculum will automatically be approved for use by a certificate holder, if a certificate holder applies to use that provisionally approved curriculum in its AQP. In most cases specific tailoring to the certificate holder's needs will be necessary.

Submission to District Offices

Application for approval of an AQP (proposed section 7(a); final rule section 10(a)) and application for provisional approval of a curriculum by a training center (proposed section 8(a)(1); final rule section 11(a)(1)) must be made to the appropriate FAA Flight Standards District Office.

Three commenters question the need for referencing the Flight Standards District Office. One states that it confuses the process since the Administrator is mentioned also. The other states that internal FAA organizational structure is not normally addressed in the rule and that there is no reason for an exception in this case.

Response: With respect to the approval authority, the commenters are technically correct. This authority is vested in the Administrator unless the Administrator delegates the authority to another person. Since "Administrator" is defined in 14 CFR part 1 to mean the Administrator "or any person to whom he has delegated authority in the matter concerned," it is not necessary to state the level of delegation within the rule. However, there are numerous places (e.g., §§ 121.358(b)(1), 121.77(b) and its proposed successor § 119.41(c)) where the present regulations are more specific because the FAA wants to ensure that initial contact is with the appropriate FAA local office.

Five-Year Termination

Five comments were received on the proposed expiration date of the SFAR in proposed section 10 (final rule section 13). All five comments state that an expiration date 5 years after the effective date is not long enough to prove the effectiveness of an AQP, especially considering the effort involved in development, approval, and validation of an AQP curriculum.

Response: The FAA believes that 5 years is long enough to determine effectiveness of approved AQPs.

Instructor and Evaluator Qualification

Ten comments were received on the qualification and continuing qualification requirements for instructors and evaluators. Issues raised and FAA responses are as follows:

• Section 2 defines an "evaluator" as a person who meets and maintains all of the qualifications under the AQP for an instructor * * *" Several commenters point out that this requires that an evaluator must always be a qualified instructor. However, air carriers use line check pilots and initial operating experience check pilots who have never been flight instructors or evaluators.

Response: The FAA acknowledges that evaluator qualification requirements may not include all instructor requirements. For example, a person who has served as an instructor, an evaluator, or both in one make, model, and series aircraft could be an excellent evaluator in a similar aircraft without being fully qualified as an instructor in the second aircraft. Therefore, the rule and AQP AC have been changed to allow qualifying evaluators not otherwise qualified as instructors.

• Proposed section 3(b)(2) (ii) and (iii) set forth qualification curriculum requirements for instructors and evaluators. Several commenters requested that these requirements be broadened to include flight simulator, classroom, flight attendant, and dispatcher instructors. One commenter asks if the SFAR permits the use of flight simulator only instructors.

Response: The SFAR language (final rule section 5(b) (2) and (3)) has been broadened to permit the use of flight simulator, classroom, flight attendant, and dispatcher instructors, provided the FAA has approved the qualification standards under an AQP and the instructor meets those standards.

• One commenter stated that Line-Oriented Flight Training (LOFT) for 3 person crews must use instructors and evaluators that are active line qualified airmen.

Response: This rule and its accompanying AQP AC do not spell out prerequisites for instructors and evaluators conducting Line Operational Simulations (which includes LOFT). General guidance will be supplied in a Line Operational Simulations AC.

• One commenter says there is a problem with proposed section 3(c)(3)(iii) which requires instructors and evaluators who are limited to conducting their duties in flight simulators and flight training devices to have appropriate proficiency instruction in a flight training device or flight simulator on normal, abnormal, and emergency flight procedures and maneuvers. According to the commenter this would not teach an instructor or evaluator what he or she needs to know such as how to operate an instructor's console in a jump seat position. Proposed paragraph (c)(3) also requires recurring instruction for instructors and evaluators once every 26 calendar months. As proposed this instruction would be in a flight simulator and flight training device on normal, abnormal, and emergency flight procedures. This commenter states that instructors would not need recurring instruction in

procedures and maneuvers which they teach. The instruction itself should count as recurrent training.

Response: The FAA does not agree that instructors and evaluators have no need for training under a continuing qualification program in the procedures that they instruct or observe as instructors and evaluators. There is always a need to be kept current in changes in procedures, or equipment, or both. With respect to the commenter's concern that the SFAR does not require that the instructor or evaluator be trained in operating an instruction console in a jump seat position, the FAA points out that the SFAR does not duplicate all of the present FAR requirements. Sections 121.413 and 135.339 or alternative AQP requirements would ensure that each instructor or evaluator will be qualified in appropriate instruction or evaluation techniques, including operation of a console.

Flight Instruction and Evaluation Tables

The draft AQP AC presents flight instruction and evaluation tables in chapter 4, "Qualification Curriculums." Nine commenters raised questions about these flight instruction/evaluation events tables. Virtually all commenters question the appropriateness of using these tables to impose more restrictive requirements than are in the present rules. Several point out that if a carrier did not have the level of flight simulator required by these draft tables, pilots would have to perform potentially dangerous maneuvers in an airplane. They question the appropriateness of making flight simulator use less available than under present rules. Several state that if the tables are retained (and at least one commenter thinks they should be eliminated) then further introductory language is needed to explain how the tables work. The consensus of the commenters is that the tables should not be viewed as minimum standards but rather as acceptable standards. That is, that use of a media as shown in the tables is automatically approved but that to quote one commenter, "use of media outside the indicated range would be authorized if satisfactorily justified."

Response: The FAA's intent is as recommended by these commenters. The tables are intended as acceptable standards, that is, if an AQP applicant uses the tables, the applicant is assured that in this area its application will be approved automatically. However, an applicant is free to propose utilization outside the charted ranges of qualification levels. FAA approval of utilization outside the charted range will depend upon adequate justification. The AC now clarifies this intent. In reorganizing the AC, the tables were moved to Appendix C; they were also revised.

Acceptable Standards

One commenter suggested that the term "minimum standards" throughout the AQP AC be replaced by the term "acceptable standards." This commenter believes that the connotation of "minimum standards" "is not helpful to the FAA or the industry."

Response: The term "minimum standards" is used in the subtitle of title VI of the FA Act and repeatedly throughout title VI and is, the FAA believes, appropriate in describing the Federal Aviation Regulations. However, the AQP AC has been revised to use the term "acceptable" when appropriate to show that an applicant may obtain approval for an AQP that does not entirely follow the guidelines in the AQP AC but is an alternative equivalent to the guidelines in the AQP AC.

Proficiency Evaluation

Six comments were received on proposed section 3(c)(4)(i) which requires a proficiency evaluation for PICs, SICs, and flight engineers during each recurring training session. Three commenters request rewriting the paragraph because, as written, no training (including ground school sessions) could be conducted without accomplishing flight proficiency evaluations. They contend such a requirement might actually discourage frequent training sessions. Two commenters state that evaluations should be required on alternating training visits.

Response: The language of the SFAR has been clarified. The requirement for evaluation in section 6(b)(1) is tied to a certificate holder's evaluation period within an approved continuing qualification cycle and not to the number of visits that a person may make to a training facility to participate in training sessions. That is, if a certificate holder elects to divide its recurring training into more than one training session within an evaluation period, the certificate holder would only be required to conduct at least one proficiency evaluation during an evaluation period and would not be required, as proposed, to conduct one following each training session. However, a certificate holder that conducts several training sessions within an evaluation period would not be prevented from conducting proficiency evaluations as part of each training session.

One commenter asks if this proficiency evaluation requirement is related to the instrument proficiency check in § 135.297 or to the competency check required in § 135.293.

Response: The proficiency evaluation required by section 6(b)(3) (i) and (ii) would most likely consist of elements of both regulations. The SFAR requires that elements to be included must be approved as part of the continuing qualification curriculum.

Recency Requirements

Proposed section 3(c)(3)(iv) states that continuing qualification for PICs and SICs under an AQP must include recency of experience requirements in accordance with § 121.439.

Several commenters have questions about this requirement. One commenter thinks the requirement should be deleted since it is already in part 121. Another commenter asks if recency requirements of part 121 would apply or those required in an AQP. One commenter says that recency requirements are not presently tracked by training departments and so should not be part of training.

Response: In the final rule the FAA has changed the recency requirement of section 6(b)(4) by deleting the reference to § 121.429 and addinq the word "approved" to recency requirements. The reference to recency requirements has been retained to make it clear that compliance with these requirements is an element of a continuing qualification curriculum. Guidelines on recency requirements are contained in the AQP AC.

Dual Operators

One commenter states that the part 135 proposed SFAR requirements are not compatible with parts 91 and 61. A PIC for an operator who operates under parts 91 and 135 would still be required to have a check every 12 calendar months as required by § 61.58.

Response: The FAA agrees that the proposed SFAR would not allow the flexibility intended for dual operators under parts 91 and 135. Therefore, the FAA is amending § 61.58 to provide that pilots maintaining continuing qualification under an approved AQP are considered to have met these check requirements.

Advisory Committee

In the preamble to the proposed SFAR, the FAA states that it is considering establishing a training advisory committee under the Federal Advisory Committee Act. Three commenters state strong support for this

idea. Two focus on the makeup of the committee. One states that it should be apolitical and the other states that it is essential that the line pilot be represented on the committee.

FAA Response: The FAA is in the process of establishing an advisory committee under the Federal Advisory Committee Act.

Curriculum Development

Four commenters point out that the draft AQP AC Chapter 2 "Overview: Components of an Advanced Qualification Program" is not as helpful as it should be for developing an AQP curriculum.

FAA Response: The FAA has revised the AQP AC to provide more detailed guidelines for developing AQP curriculums. Chapter 2 of the AQP AC provides an overview and new chapter 7 provides details on how to develop, implement, and maintain an AQP.

Principal Operations Inspectors and Approval

A comment from a training center expresses concern about the approval process. The commenter believes that Principal Operations Inspectors (POI) might frustrate the application of the AQP concept, particularly for training centers that have received provisional approval and may be asked to alter that curriculum to the specific needs of a certificate holder by a POI. What was approved in the first stage may be disapproved by the POI at the second stage.

Another commenter states that the FAA should provide for a central authority to review and approve AQPs to assure standardization.

Response: The FAA has established the Air Carrier Training Branch to ensure standardization of the AQP approval process. While AQP applications must be submitted to the Flight Standards District Office charged with the overall inspection of the certificate holder's or training center's operations, the application will be forwarded to the Air Carrier Training Branch for review and appropriate action.

The AQP AC has been revised to show procedures of the approval process in greater detail than the draft AC showed. The Air Carrier Training Branch will lead the review and analysis for each phase of the approval process. The review and analysis team will include an instructional system design specialist, air carrier operations specialists, a data management specialist, a civil aviation security inspector, an inspector from the National Simulator Program Staff, and the designee of the applicant's operations inspector. The review and analysis findings will be documented in a report with recommendations for acceptance or rejection to the Manager, Air Carrier Training Branch.

Review and analysis procedures will be the same for certificate holders and training centers, except that for training centers the development process ends in provisional approval until the provisionally approved curriculum is tailored to a certificate holder's operations and reevaluated for approval as the certificate holder's AQP.

At no stage of the approval process would a POI or any member of the team act alone to accept or reject an application for an AQP. The initial submission of required documents to a POI would not be forwarded to the Air Carrier Training Branch if it was incomplete or otherwise not in compliance with submission procedures in the AQP AC.

Indoctrination

The proposed SFAR requires in section 3(a) that each AQP have separate curriculums for indoctrination that cover: (1) Company policies and practices for all newly hired persons; (2) general aeronautical knowledge for newly hired flight crewmembers and dispatchers; (3) methods and theories of instruction and the knowledge needed to use flight training devices and flight simulators for instructors; and (4) requirements, methods, policies, and practices of evaluating for evaluators.

Several commenters state that they did not think indoctrination curriculums should be mandatory. They should be optional as needed, for example, with entry level aircraft.

Response: Having an indoctrination curriculum as part of an AQP is required. If crewmembers have already completed indoctrination, repeating the curriculum will not be required. As discussed earlier, the presence of a curriculum in an AQP does not mean that each module of the curriculum must be used in every instance. It means that the curriculum objectives have been included in the program and if those objectives have not already been accomplished by a trainee, they must be.

Comment Period

Two commenters state that the 60-day comment period was insufficient. One of these commenters requests an additional 6 months and also requests that helicopter operations be considered in any future actions.

Response: The 60-day comment period for the proposed SFAR was considered to be adequate given the previous consultation between FAA, other government agencies, and industry associations.

Beyond the Scope of the Notice

A few comments were received that did not directly relate to the proposal. These comments included information on training and training equipment, as well as an objection to the increase in the use of 2-person flight crews.

Miscellaneous Technical Comments

Several comments were received that request changes or clarifications of specific wording in the proposal. None of these comments would involve significant substantive changes. The FAA has considered these comments and, if appropriate, has changed or clarified the language accordingly.

Revision of the Advisory Circular

Certain revisions necessitated by comments have led to a reorganization of portions of the AC and the addition of new material. In particular AC Chapter 7, "Five Phases of the Advanced Qualification Program," Chapter 8, "Approval Process for an Advanced Qualification Program," and Chapter 9, "Advanced Qualification Program Validation" provide more detailed guidance than that provided in the draft AQP AC.

Regulatory Evaluation

The AQP is not mandatory; it is left up to the discretion of the individual certificate holder as to whether to adopt the AQP, and the FAA assumes that certificate holders will do so only if it improves their training effectiveness and safety or is otherwise in their economic interest. In fact, the limited available industry data suggests that benefits to the adopter could exceed costs. Therefore, it is assumed that this SFAR will not impose any additional net cost on the industry.

These regulations might make possible some costs savings in the air carriers' crew training programs. This may occur because: (1) Training time would be related to the attainment of individual proficiency instead of set hours of training, and (2) the frequency of recurring training for PIC's could be reduced thereby reducing training costs.

This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal,

State and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this rule is not "major" as defined in the executive order, therefore a full regulatory analysis, that includes the identification and evaluation of cost reducing alternatives to this rule, has not been prepared. Instead, the agency has prepared a more concise document termed a regulatory evaluation that analyzes only this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (Pub. L. 96-354) and an international trade impact assessment. If more detailed economic information is desired than is contained in this summary, the reader is referred to the full regulatory evaluation contained in the docket.

Since the AQP will build upon the current system, the FAA expects it to provide levels of safety equal to or higher than that provided by current regulations. If after evaluation by the FAA's Air Carrier Training Branch, the AQP is determined to provide a higher level of safety than the current system, the FAA may consider making it mandatory for certain classes of operators under a future rulemaking action.

The only FAA costs attributable to this SFAR are those of establishing and operating an Air Carrier Training Branch with three sections with assistance from appropriate Security and Hazardous Material personnel. This branch would assume the primary responsibility for the final review and analysis of air carrier training programs submitted to the FAA for approval under the provisions of the SFAR.

The Air Carrier Training Branch will gather and analyze data to verify and validate proficiency requirements and program qualifications and will monitor and evaluate the AQP. This staff will consist of three sections, each with a GM-15 manager, a total of 21 inspectors, specialists, and analysts, one GS-11 programmer, and two GS-6 secretaries. Field sections will share 5 workstations, a printer, plotter, and a telefax machine. The estimated annual cost of the new branch is $2.2 million and a one-time cost of equipment of $50,000.

The primary benefit expected of the proposed SFAR would be a reduction of the number of air carrier accidents in which crew coordination problems are a contributing factor. A review of NTSB aviation accident data reveals that during the past 20 years, there were 17 such accidents involving part 121 air carriers and 17 accidents involving part 135 air carriers. These accidents have resulted in 697 fatalities and 190 serious injuries and the costs of these types of accidents were $1,329 million or about $66 million dollars per year.

Accidents in which crew coordination problems were a contributing factor appear to have occurred at a consistent rate during the past 20 years for part 121 departures; there were 0.17 $\pm$0.08 accidents of this type per 1 million part 121 IFR departures. For part 135 operators, these types of accidents declined during the 70's and have been level during the 80's at .84 $\pm$.40 accidents per 1 million part 135 IFR departures. To be conservative, the FAA used the upper bounds of these estimates (.26 accidents per 1 million part 121 IFR departures and 1.24 accidents per 1 million part 135 IFR departures) to project the number of future accidents in which crew coordination problems are a contributing factor. Applying accident rates to forecasted departures for the period 1991 to 1995 the projected number of part 121 and part 135 accidents of this type are 9.0 and 17.9, respectively.

The economic losses due to these projected accidents would be substantial: $609 million due to part 121 air carrier accidents and $119 million due to part 135 air carrier accidents. The average annual loss during this period is estimated to be $145 million a year. Accident trends will be closely monitored during the 5-year life of the SFAR to determine the impact of the AQP. AQP would also make possible some cost savings in the large air carriers' training programs. The limited available information suggests that large part 121 operators might have a crew training cost savings of $61.9 million per year and that large part 135 operators would have a cost savings of $5.1 million per year. Some training costs, however, would be increased by this SFAR. For the large part 121 operators, it is estimated that some training costs would be increased by $15.5 million per year; for the part 135 operators, some of their training costs are estimated to be increased by $652,000 per year. Both the large part 121 and the large part 135 operators could have an annual net cost savings as a result of this SFAR—$66.4 million for large part 121 operators, and $4.4 million for large part 135 operators. These cost savings and cost increases are explained in more detail in the regulatory evaluation.

Two benefit-cost comparisons are made in this evaluation in order to take into account the uncertainties regarding the effectiveness of this program at reducing accidents and the amount of participation of part 121 and part 135 operators in this program. In the first comparisons it is assumed that 100 percent of the large part 121 and part 135 operators will participate in this program starting in the first year. It is also assumed that this program is only 20 percent effective at reducing aviation accidents in which cockpit crew coordination problems are a contributing factor. This is an arbitrary low number chosen to be a conservative estimate of the chief benefits of this program (another benefit would be a reduction in crew training costs for the large operators); the FAA expects this proposed program to be more effective than 20 percent. In the second comparison, it is assumed that only 5 percent of the crews used by the large part 121 and part 135 operators will participate in the program and that the program will only be one percent effective at reducing the above type of accidents. The second comparison is a worst case scenario.

In both comparisons, the potential benefits of this rule exceed the estimated costs of the program. In the first comparison, the present value of the 5-year stream of benefits is $433 million which is $345 million greater than the present value of the 5-year stream of costs which is $88 million. In the second comparison, the present value of the 5-year stream of benefits is $22 million which also exceeds the present value of the 5-year stream of costs which is $10 million. Both of these ratios will be higher if the SFAR is more effective than 20 percent at reducing accidents in which cockpit crew coordination problems are a contributing factor. The FAA, therefore, determines that the benefits of the proposed SFAR will exceed the costs that may result from it.

International Trade Impact

The proposal would have little or no impact on trade for both U.S. firms doing

business overseas and foreign firms doing business in the United States. The proposals are likely to improve training efficiency and, therefore, reduce costs for U.S. air carriers.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

The proposals would impact those entities regulated by part 121 and part 135. The FAA's criteria for "a substantial number" is a number which is not less than 11 and which is more than one third of the small entities subject to the rule. For air carriers a small entity has been defined as one who owns, but does not necessarily operate, nine aircraft or less. The FAA's criteria for "a significant impact" are at least $3,800 per year (1989 dollars) for an unscheduled carrier and $53,400 or $95,600 per year (1989 dollars) for a scheduled carrier depending on whether or not the fleet operated includes small aircraft (60 or fewer seats).

This SFAR does not impose any costs upon part 121 and part 135 certificate holders because the provisions in this SFAR are voluntary. It is left to the discretion of the certificate holders as to whether they will adopt the provisions of this SFAR. Those that do, will do so because adopting this SFAR will improve their operations and safety without a net increase in costs or because it is in their economic interest. The FAA believes that the larger air carriers are most likely to adopt the provisions of this SFAR and that the smaller air carriers would not. The smaller air carriers would not be able to adopt the provisions in this SFAR because they do not have the necessary facilities and equipment and because of the high turnover rate of their pilots. Flight training centers might alleviate the first problem. As a result of economies of scale, these centers could offer flight crew training programs that make maximum use of flight simulators and flight training devices to small air carriers at affordable rates. However, the high turnover rate of their pilots necessitates that small air carriers concentrate their pilot training on improving and maintaining pilot proficiency and discourages small air carriers from adopting AQP.

This SFAR imposes no additional cost on any small part 121 certificate holder nor any additional cost on any small part 135 certificate holder. Therefore, the proposed amendments to 14 CFR parts 121 and 135 will not have a significant economic impact on a substantial number of small entities.

Federalism Implications

The regulations herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not major under Executive Order 12291. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects

14 CFR Part 61

Air safety, Air transportation, Aviation safety, Safety.

14 CFR Part 63

Air Safety, Air transportation, Airmen, Aviation safety, Safety, Transportation.

14 CFR Part 65

Airmen, Aviation safety, Air transportation, Aircraft.

14 CFR Part 108

Airplane operator security, Aviation safety, Air transportation, Air carriers, Airlines, Security measures, Transportation, Weapons.

14 CFR Part 121

Aircraft pilots, Airmen, Aviation safety, Pilots, Safety.

14 CFR Part 135

Air carriers, Air transportation, Airmen, Aviation safety, Safety, Pilots.

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends title 14, chapter I of the Code of Federal Regulations, as set forth below:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

2. In part 61 the table of contents is amended by adding SFAR No. 58 to read as follows:

Special Federal Aviation Regulations

SFAR No. 58 [Note]

3. A section for Special Federal Aviation Regulations is added to read as follows:

Special Federal Aviation Regulations

SFAR No. 58

Editorial Note: For the text of SFAR No. 58, see part 121 of this chapter.

4. Section 61.58 is amended by revising paragraph (e) to read as follows:

§ 61.58 Pilot in command proficiency check: Operation of aircraft requiring more than one required pilot.

* * * * *

(e) This section does not apply to persons conducting operations subject to parts 121, 127, 133, 135, and 137 of this chapter or to persons maintaining continuing qualification under an Advanced Qualification Program approved under SFAR 58.

* * * * *

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

5. The authority citation for part 63 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422, 1427, 1429, and 1430; 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983).

6. In part 63 the table of contents is amended by adding SFAR No. 58 to read as follows:

Special Federal Aviation Regulations

SFAR No. 58 [Note]

7. A section for Special Federal Aviation Regulations is added to read as follows:

Special Federal Aviation Regulations

SFAR No. 58

Editorial Note: For the text of SFAR No. 58, see part 121 of this chapter.

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

8. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983).

9. In part 65 the table of contents is amended by adding SFAR No. 58 to read as follows:

Special Federal Aviation Regulations

SFAR No. 58 [Note]

10. A section for Special Federal Aviation Regulations is added to read as follows:

Special Federal Aviation Regulations

SFAR No. 58

Editorial Note: For the text of SFAR No. 58, see part 121 of this chapter.

PART 108—AIRPLANE OPERATOR SECURITY

11. The authority citation for part 108 continues to read as follows:

Authority: 49 U.S.C. 1354, 1356, 1357, 1358, 1421, and 1424; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

12. Section 108.23(b) is revised to read as follows:

§ 108.23 Training.

* * * * *

(b) No certificate holder may use any person as a crewmember on any domestic or international flight unless within the preceding 12 calendar months or within the time period specified in an Advanced Qualification Program approved under SFAR 58 that person has satisfactorily completed the security training required by § 121.417(b)(3)(v) or § 135.331(b)(3)(v) of this chapter and as specified in the certificate holder's approved security program. With respect to training conducted under § 121.417 or § 135.331, Whenever a crewmember Who is required to take recurrent training completes the training in the calendar month before or the calendar month after the calendar month in which that training is required, he is considered to have completed the training in the calendar month in which it was required.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

13. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421-1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

14. In part 121 the table of contents of Special Federal Aviation Regulations is amended by adding SFAR No. 58 to read as follows:

Special Federal Aviation Regulations

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SFAR No. 58

15. In part 121 the section of Special Federal Aviation Regulations is amended, by adding SFAR No. 58 to read as follows:

Special Federal Aviation Regulations

* * * * *

Special Federal Aviation Regulation No. 58—Advanced Qualification Program

Section

1. Purpose and eligibility.
2. Definitions.
3. Required Curriculums.
4. Indoctrination Curriculums.
5. Qualification Curriculums.
6. Continuing Qualification Curriculums.
7. Other Requirements.
8. Certification.
9. Training Devices and Simulators.
10. Approval of Advanced Qualification Program.
11. Approval of Training, Qualification, or Evaluation by a Person Who Provides Training by Arrangement.
12. Recordkeeping requirements.
13. Expiration.

Contrary provisions of parts 61, 63, 65, 121, and 135 of the Federal Aviation Regulations notwithstanding—

1. *Purpose and Eligibility.*

(a) This Special Federal Aviation Regulation provides for approval of an alternate method (known as "Advanced Qualification Program" or "AQP") for qualifying, training, certifying, and otherwise ensuring competency of crewmembers, aircraft dispatchers, other operations personnel, instructors, and evaluators who are required to be trained or qualified under parts 121 and 135 of the FAR or under this SFAR.

(b) A certificate holder is eligible under this Special Federal Aviation Regulation if the certificate holder is required to have an approved training program under § 121.401 or § 135.341 of the FAR, or elects to have an approved training program under § 135.341.

(c) A certificate holder obtains approval of each proposed curriculum under this AQP as specified in section 10 of this SFAR.

(d) A curriculum approved under the AQP may include elements of present Part 121 and Part 135 training programs. Each curriculum must specify the make, model, and series aircraft (or variant) and each crewmember position or other positions to be covered by that curriculum. Positions to be covered by the AQP must include all flight crewmember positions, instructors, and evaluators and may include other positions, such as flight attendants, aircraft dispatchers, and other operations personnel.

(e) Each certificate holder that obtains approval of an AQP under this SFAR shall comply with all of the requirements of that program.

2. *Definitions.* As used in this SFAR:

Curriculum means a portion of an Advanced Qualification Program that covers one of three program areas: (1) indoctrination, (2) qualification, or (3) continuing qualification. A qualification or continuing qualification curriculum addresses the required training and qualification activities for a specific make, model, and series aircraft (or variant) and for a specific duty position.

Evaluator means a person who has satisfactorily completed training and evaluation that qualifies that person to evaluate the performance of crewmembers, instructors, other evaluators, aircraft dispatchers, and other operations personnel.

Facility means the physical environment required for training and qualification (e.g., buildings, classrooms).

Training center means an independent organization that provides training under contract or other arrangement to certificate holders. A training center may be a certificate holder that provides training to another certificate holder, an aircraft manufacturer that provides training to certificate holders, or any non-certificate holder that provides training to a certificate holder.

Variant means a specifically configured aircraft for which the FAA has identified training and qualification requirements that are significantly different from those applicable to other aircraft of the same make, model, and series.

3. *Required Curriculums.* Each AQP must have separate curriculums for indoctrination, qualification, and continuing qualification as specified in sections 4, 5, and 6 of this SFAR.

4. *Indoctrination Curriculums.* Each indoctrination curriculum must include the following:

(a) For newly hired persons being trained under an AQP: Company policies and operating practices and general operational knowledge.

(b) For newly hired flight crewmembers and aircraft dispatchers: General aeronautical knowledge.

(c) For instructors: The fundamental principles of the teaching and learning process; methods and theories of instruction; and the knowledge necessary to use aircraft, flight training devices, flight simulators, and other training equipment in advanced qualification curriculums.

(d) For evaluators: Evaluation requirements specified in each approved curriculum; methods of evaluating crewmembers and aircraft dispatchers and other operations

personnel; and policies and practices used to conduct the kinds of evaluations particular to an advanced qualification curriculum (e.g., proficiency and online).

5. *Qualification Curriculums.* Each qualification curriculum must include the following:

(a) The certificate holder's planned hours of training, evaluation, and supervised operating experience.

(b) A list of and text describing the training, qualification, and certification activities, as applicable for specific positions subject to the AQP, as follows:

(1) *Crewmembers, aircraft dispatchers, and other operations personnel.* Training, evaluation, and certification activities which are aircraft- and equipment-specific to qualify a person for a particular duty position on, or duties related to the operation of a specific make, model, and series aircraft (or variant); a list of and text describing the knowledge requirements, subject materials, job skills, and each maneuver and procedure to be trained and evaluated; the practical test requirements in addition to or in place of the requirements of parts 61, 63, and 65; and a list of and text describing supervised operating experience.

(2) *Instructors.* Training and evaluation to qualify a person to impart instruction on how to operate, or on how to ensure the safe operation of a particular make, model, and series aircraft (or variant).

(3) *Evaluators.* Training, evaluation, and certification activities that are aircraft and equipment specific to qualify a person to evaluate the performance of persons who operate or who ensure the safe operation of, a particular make, model, and series aircraft (or variant).

6. *Continuing Qualification Curriculums.* Continuing qualification curriculums must comply with the following requirements:

(a) *General.* A continuing qualification curriculum must be based on—

(1) A continuing qualification cycle that ensures that during each cycle each person qualified under an AQP, including instructors and evaluators, will receive a balanced mix of training and evaluation on all events and subjects necessary to ensure that each person maintains the minimum proficiency level of knowledge, skills, and attitudes required for original qualification; and

(2) If applicable, flight crewmember or aircraft dispatcher recency of experience requirements.

(b) *Continuing Qualification Cycle Content.* Each continuing qualification cycle must include at least the following:

(1) *Evaluation period.* An evaluation period during which each person qualified under an AQP must receive at least one training session and a proficiency evaluation at a training facility. The number and frequency of training sessions must be approved by the Administrator. A training session, including any proficiency evaluation completed at that session, that occurs any time during the two calendar months before the last date for completion of an evaluation period can be considered by the certificate holder to be completed in the last calendar month.

(2) *Training.* Continuing qualification must include training in all events and major subjects required for original qualification, as follows:

(i) For pilots in command, seconds in command, flight engineers, and instructors and evaluators: Ground training including a general review of knowledge and skills covered in qualification training, updated information on newly developed procedures, and safety information.

(ii) For crewmembers, aircraft dispatchers, instructors, evaluators, and other operation personnel who conduct their duties in flight: Proficiency training in an aircraft, flight training device, or flight simulator on normal, abnormal, and emergency flight procedures and maneuvers.

(iii) For instructors and evaluators who are limited to conducting their duties in flight simulators and flight training devices: Proficiency training in a flight training device and/or flight simulator regarding operation of this training equipment and in operational flight procedures and maneuvers (normal, abnormal, and emergency).

(3) *Evaluations.* Continuing qualification must include evaluation in all events and major subjects required for original qualification, and online evaluations for pilots in command and other eligible flight crewmembers. Each person qualified under an AQP must successfully complete a proficiency evaluation and, if applicable, an online evaluation during each evaluation period. An individual's proficiency evaluation may be accomplished over several training sessions if a certificate holder provides more than one training session in an evaluation period. The following evaluation requirements apply:

(i) Proficiency evaluations as follows:

(A) For pilots in command, seconds in command, and flight engineers: A proficiency evaluation, portions of which may be conducted in an aircraft, flight simulator, or flight training device as approved in the certificate holder's curriculum which must be completed during each evaluation period.

(B) For any other persons covered by an AQP a means to evaluate their proficiency in the performance of their duties in their assigned tasks in an operational setting.

(ii) Online evaluations as follows:

(A) For pilots in command: An online evaluation conducted in an aircraft during actual flight operations under part 121 or part 135 or during operationally (line) oriented flights, such as ferry flights or proving flights. An online evaluation in an aircraft must be completed in the calendar month that includes the midpoint of the evaluation period. An online evaluation that is satisfactorily completed in the calendar month before or the calendar month after the calendar month in which it becomes due is considered to have been completed during the calendar month it became due. However, in no case is an online evaluation under this paragraph required more often than once during an evaluation period.

(B) During the online evaluations required under paragraph (b)(3)(ii)(A) of this section, each person performing duties as a pilot in command, second in command, or flight engineer for that flight, must be individually evaluated to determine whether he or she—

(*1*) Remains adequately trained and currently proficient with respect to the particular aircraft, crew position, and type of operation in which he or she serves; and (*2*) Has sufficient knowledge and skills to operate effectively as part of a crew.

(4) *Recency of experience.* For pilots in command and seconds in command, and, if the certificate holder elects, flight engineers and aircraft dispatchers, approved recency of experience requirements.

(c) *Duration periods.* Initially the continuing qualification cycle approved for an AQP may not exceed 26 calendar months and the evaluation period may not exceed 13 calendar months. Thereafter, upon demonstration by a certificate holder that an extension is warranted, the Administrator may approve extensions of the continuing qualification cycle and the evaluation period in increments not exceeding 3 calendar months. However, a continuing qualification cycle may not exceed 39 calendar months and an evaluation period may not exceed 26 calendar months.

(d) *Requalification.* Each continuing qualification curriculum must include a curriculum segment that covers the requirements for requalifying a crewmember, aircraft dispatcher, or other operations personnel who has not maintained continuing qualification.

7. *Other Requirements.* In addition to the requirements of sections 4, 5, and 6, each AQP qualification and continuing qualification curriculum must include the following requirements:

(a) Approved Cockpit Resource Management (CRM) Training applicable to each position for which training is provided under an AQP.

(b) Approved training on and evaluation of skills and proficiency of each person being trained under an AQP to use their cockpit resource management skills and their technical (piloting or other) skills in an actual or simulated operations scenario. For flight crewmembers this training and evaluation must be conducted in an approved flight training device or flight simulator.

(c) Data collection procedures that will ensure that the certificate holder provides information from its crewmembers, instructors, and evaluators that will enable the FAA to determine whether the training and evaluations are working to accomplish the overall objectives of the curriculum.

8. *Certification.* A person enrolled in an AQP is eligible to receive a commercial or airline transport pilot, flight engineer, or aircraft dispatcher certificate or appropriate rating based on the successful completion of training and evaluation events accomplished under that program if the following requirements are met:

(a) Training and evaluation of required knowledge and skills under the AQP must meet minimum certification and rating criteria established by the Administrator in parts 61, 63, or 65. The Administrator may accept substitutes for the practical test requirements of parts 61, 63, or 65, as applicable.

(b) The applicant satisfactorily completes the appropriate qualification curriculum.

(c) The applicant shows competence in required technical knowledge and skills (e.g., piloting) and cockpit resource management knowledge and skills in scenarios that test both types of knowledge and skills together.

(d) The applicant is otherwise eligible under the applicable requirements of part 61, 63, or 65.

9. *Training Devices and Simulators.*

(a) *Qualification and approval of flight training devices and flight simulators.* (1) Any training device or simulator that will be used in an AQP for one of the following purposes must be evaluated by the Administrator for assignment of a flight training device or flight simulator qualification level:

(i) Required evaluation of individual or crew proficiency.

(ii) Training activities that determine if an individual or crew is ready for a proficiency evaluation.

(iii) Activities used to meet recency of experience requirements.

(iv) Line Operational Simulations (LOS).

(2) To be eligible to request evaluation for a qualification level of a flight training device or flight simulator an applicant must—

(i) Hold an operating certificate; or

(ii) Be a training center that has applied for authorization to the Administrator or has been authorized by the Administrator to conduct training or qualification under an AQP.

(3) Each flight training device or flight simulator to be used by a certificate holder or training center for any of the purposes set forth in paragraph (a)(1) of this section must—

(i) Be, or have been, evaluated against a set of criteria established by the Administrator for a particular qualification level of simulation;

(ii) Be approved for its intended use in a specified AQP; and

(iii) Be part of a flight simulator or flight training device continuing qualification program approved by the Administrator.

(b) *Approval of other Training Equipment.* (1) Any training device that is intended to be used in an AQP for purposes other than those set forth in paragraph (a)(1) of this section must be approved by the Administrator for its intended use.

(2) An applicant for approval of a training device under this paragraph must identify the device by its nomenclature and describe its intended use.

(3) Each training device approved for use in an AQP must be part of a continuing program to provide for its serviceability and fitness to perform its intended function as approved by the Administrator.

10. *Approval of Advanced Qualification Program.*

(a) *Approval Process.* Each applicant for approval of an AQP curriculum under this SFAR shall apply for approval of that curriculum. Application for approval is made to the certificate holder's FAA Flight Standards District Office.

(b) *Approval Criteria.* An application for approval of an AQP curriculum will be approved if the program meets the following requirements:

(1) It must be submitted in a form and manner acceptable to the Administrator.

(2) It must meet all of the requirements of this SFAR.

(3) It must indicate specifically the requirements of parts 61, 63, 65, 121 or 135, as applicable, that would be replaced by an AQP curriculum. If a requirement of parts 61, 63, 65, 121, or 135 is replaced by an AQP curriculum, the certificate holder must show how the AQP curriculum provides an equivalent level of safety for each requirement that is replaced. Each applicable requirement of parts 61, 63, 65, 121 or 135 that is not specifically addressed in an AQP curriculum continues to apply to the certificate holder.

(c) *Application and Transition.* Each certificate holder that applies for one or more advanced qualification curriculums or for a revision to a previously approved curriculum must comply with § 121.405 or § 135.325, as applicable, and must include as part of its application a proposed transition plan (containing a calendar of events) for moving from its present approved training to the advanced qualification training.

(d) *Advanced Qualification Program Revisions or Rescissions of Approval.* If after a certificate holder begins operations under an AQP, the Administrator finds that the certificate holder is not meeting the provisions of its approved AQP, the Administrator may require the certificate holder to make revisions in accordance with § 121.405 or § 135.325, as applicable, or to submit and obtain approval for a plan (containing a schedule of events) that the certificate holder must comply with and use to transition to an approved Part 121 or Part 135 training program, as appropriate.

11. *Approval of Training, Qualification, or Evaluation by a Person who Provides Training by Arrangement.*

(a) A certificate holder under part 121 or part 135 may arrange to have AQP required training, qualification, or evaluation functions performed by another person (a "training center") if the following requirements are met:

(1) The training center's training and qualification curriculums, curriculum segments, or portions of curriculum segments must be provisionally approved by the Administrator. A training center may apply for provisional approval independently or in conjunction with a certificate holder's application for AQP approval. Application for provisional approval must be made to the FAA's Flight Standards District Office that has responsibility for the training center.

(2) The specific use of provisionally approved curriculums, curriculum segments, or portions of curriculum segments in a certificate holder's AQP must be approved by the Administrator as set forth in section 10 of this SFAR.

(b) An applicant for provisional approval of a curriculum, curriculum segment, or portion of a curriculum segment under this paragraph must show that the following requirements are met:

(1) The applicant must have a curriculum for the qualification and continuing qualification of each instructor or evaluator employed by the applicant.

(2) The applicant's facilities must be found by the Administrator to be adequate for any planned training, qualification, or evaluation for a part 121 or part 135 certificate holder.

(3) Except for indoctrination curriculums, the curriculum, curriculum segment, or portion of a curriculum segment must identify the specific make, model, and series aircraft (or variant) and crewmember or other positions for which it is designed.

(c) A certificate holder who wants approval to use a training center's provisionally approved curriculum, curriculum segment, or portion of a curriculum segment in its AQP, must show that the following requirements are met:

(1) Each instructor or evaluator used by the training center must meet all of the qualification and continuing qualification requirements that apply to employees of the certificate holder that has arranged for the training, including knowledge of the certificate holder's operations.

(2) Each provisionally approved curriculum, curriculum segment, or portion of a curriculum segment must be approved by the Administrator for use in the certificate holder's AQP. The Administrator will either provide approval or require modifications to ensure that each curriculum, curriculum segment, or portion of a curriculum segment is applicable to the certificate holder's AQP.

12. *Recordkeeping Requirements.* Each certificate holder and each training center holding AQP provisional approval shall show that it will establish and maintain records in sufficient detail to establish the training, qualification, and certification of each person qualified under an AQP in accordance with the training, qualification, and certification requirements of this SFAR.

13. *Expiration.* This Special Federal Aviation Regulation terminates on October 2, 1995 unless sooner terminated.

16. In part 121, § 121.1 is amended by redesignating paragraph (c)(2) as (c)(3) and by adding a new paragraph (c)(2) to read as follows:

§ 121.1 Applicability.

* * * * *

(c) * * *

(2) Each person who applies for provisional approval of an Advanced Qualification Program curriculum, curriculum segment, or portion of a curriculum segment under SFAR No. 58 and each person employed or used by an air carrier or commercial operator under this part to perform training, qualification, or evaluation functions under an Advanced Qualification Program under SFAR No. 58; and

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PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

17. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983].

18. In part 135 the table of contents of Special Federal Aviation Regulations is amended by adding SFAR No. 58 to read as follows:

Special Federal Aviation Regulations

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SFAR No. 58 [Note]

19. The section of Special Federal Aviation Regulations is amended, by adding SFAR No. 58 [Note] to read as follows:

Special Federal Aviation Regulations

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SFAR No. 58

Editorial Note: For the text of SFAR No. 58, see part 121 of this chapter.

20. In part 135, § 135.1 is amended by redesignating paragraph (a)(4) as (a)(5) and adding a new paragraph (a)(4) to read as follows:

§ 135.1 Applicability.

* * * * *

(a) * * *

(4) Each person who applies for provisional approval of an Advanced Qualification Program curriculum, curriculum segment, or portion of a curriculum segment under SFAR No. 58 and each person employed or used by an air carrier or commercial operator under this part to perform training, qualification, or evaluation functions under an Advanced Qualification Program under SFAR No. 58; and

* * * * *

Issued in Washington, DC.

James B. Busey,

Administrator.

Appendix—Advanced Qualification Program Advisory Circular

[**Note:** This appendix will not appear in the Code of Federal Regulations.]

Table of Contents

Chapter 1. Introduction and Definitions: Advanced Qualification Program (AQP)

Section 1. Introduction

1. Purpose

This Advisory Circular (AC) provides Federal Aviation Administration (FAA) guidance for approval of an Advanced Qualification Program (AQP) under Special Federal Aviation Regulation 58 (SFAR 58). An AQP is an alternate method of qualifying, training, certifying, and otherwise ensuring the competency of flight crewmembers, flight attendants, aircraft dispatchers, instructors, evaluators, and other operations personnel subject to the training and evaluation requirements of Federal Aviation Regulation (FAR) parts 121 and 135. The AQP encourages innovation in the methods and technology that are used during instruction and evaluation, and efficient management of training systems. The intent of this SFAR is to achieve the highest possible standards of individual and crew performance without undue increases in the cost to maintain training resources. An objective of all AQPs is to provide effective training that will enhance professional qualifications to a level above the present standards that are provided in FAR parts 121 and 135.

2. Background

The requirements for training programs and crewmember qualification of subparts N and O of FAR part 121 have not changed significantly since 1970. However, the capabilities and use of simulators and other computer-based training devices in training and qualification activities have changed dramatically since 1970. SFAR 58 and this AC allow certificate holders that are subject to the training and evaluation requirements of part 121 and part 135 and training centers that intend to provide training for eligible certificate holders to develop innovative training and qualification programs that incorporate the most recent advances in training methods and techniques.

3. Acceptable Method of Compliance

The methods and procedures in this AC describe one acceptable means of compliance with SFAR 58. Alternate means that are proposed by an applicant will be considered.

4. Training Facilities and Equipment

Each organization authorized to participate in an AQP will have the facilities, equipment, and courseware necessary to support the activities which are provided for in the AQP. Examples of facilities include classrooms, self-paced learning stations, breakrooms, recordkeeping facilities, etc. Examples of equipment include computer-based instructional equipment and home study equipment. Examples of courseware include lesson plans, flight maneuver packages, audiovisual programs, workbooks, computer courseware, etc.

5. FAA Qualification and Approval of Equipment Used in an AQP

FAA qualification is neither required nor granted for each facility or piece of equipment used in AQPs. However, equipment such as simulators or training devices that are used in an AQP to establish or maintain qualification or currency of personnel will be evaluated against a set of criteria established by the Administrator for a particular level of simulation (qualification level), and specifically approved for use in an AQP. Guidance on qualification and approval is provided in chapter 10 and in appendix C of this AC.)

6.–9. Reserved

Section 2. Definitions

10. Definitions

The following terms are used throughout this AC and are defined as follows:

Advanced Qualification Program.

An alternate qualification program for personnel operating under FAR parts 121 and 135 and for evaluators and instructors of recognized training centers that will provide such training. An AQP integrates a number of training features and factors aimed at improving airman performance when compared to traditional programs. The principal factor is true proficiency-based qualification and training. This proficiency base (expressed as performance objectives) is systematically developed, maintained and validated.

Anonymous Data. Data that cannot be identified with a named individual.

Applicant. A certificate holder that is required to have a training program under FAR 121.401 or 135.341 or that elects to have a training program under 135.341 and that applies for an AQP; or a training center that applies to conduct training and evaluation for an eligible certificate holder under an AQP.

Attitude. Mental state relating to: willingness to discharge responsibilities; ability to handle stress; ability to make decisions (judgment); and situational awareness.

Certificate Holder. Holder of an operating certificate and operations specifications which authorize part 121 or part 135 operations.

Cockpit Resource Management. The effective use of all resources available to a crew, including hardware, software, and all persons involved in aircraft operations to achieve safe and efficient flight. For additional information, see AC 120–51, as amended, "Cockpit Resource Management Training."

Cognitive. A mental process by which knowledge is created through sensory perception and/or reason.

Conditions. Existing circumstances which affect performance; e.g., external environment (weather, runway condition, airport area, etc.; internal environment (system emergencies, etc.).

Continuing Qualification Cycle. A measure of time that includes at least one evaluation period and additionally contains training in, and evaluation of all non-critical proficiency objectives.

Courseware. Instructional material developed for each curriculum. This is the information in lesson plans, flight event descriptions, computer software programs, audiovisual programs, workbooks, and handouts.

Criterion. A standard or rule where a judgment is made; e.g., pass/fail criterion.

Criticality. A determination of the relative impact of substandard performance on safety. The relative need for awareness, care, exactness, accuracy, correctness for the success of an outcome or operation.

Currency Item. A terminal proficiency objective for which individuals and/or crews can maintain proficiency by repeated performance of the item in normal line operations.

Curriculum. A portion of an AQP that covers one of three program areas: (1) indoctrination, (2) qualification, and (3) continuing qualification. A qualification or continuing qualification curriculum addresses the required training and qualification activities for a specific make, model, and series aircraft (or variant) and for a specific duty position.

Curriculum Segment. An integral part of a curriculum which can be separately evaluated and individually approved but by itself does not qualify a person for a duty position. First level of curriculum detail (*Segment,* Module, Lesson, Lesson Element).

Difficulty. The quality of being hard to perform, comprehend, or solve. As used in this AC, the definition concerns a task or subtask and is expressed in relative terms of least to most.

Duty. All the actions (tasks, subtasks, etc.) required by one's position or occupation.

Duty Position. The operating position of a crewmember, or other person. For part 121 and part 135 operations, duty positions include pilot in command (PIC), second in command (SIC), flight engineer (FE), flight navigator (NAV), instructor (IN), and evaluator (EV), aircraft dispatcher, flight attendant, or other ground operations personnel such as those dealing in security or hazardous materials.

Enabling Proficiency Objective. A separate knowledge, skill, or attitude which helps students achieve a higher order instructional objective. For example, knowledge of an "operating limitation" supports the "start engine" subtask.

Evaluation. Careful appraisal of an individual by an evaluator to ascertain whether the standards required for a specified level of proficiency exist.

Evaluator. A person who has satisfactorily completed training and evaluation that qualifies that person to evaluate the performance of crewmembers, instructors, other evaluators, aircraft dispatchers, and other operations personnel.

Event. An integral part of training or evaluation which is task-oriented and requires the use of specific procedures.

Facility. The physical environment required for training and qualification; e.g., buildings, classrooms.

Flight Training Equipment. Aircraft and those flight training devices or flight simulators that are used for any of the following purposes: (1) Required evaluation of individual or crew proficiency; (2) training activities that determine if an individual is ready for an evaluation; (3) activities used to meet recency of experience requirements; and (4) Line Operational Simulations (LOS).

Formative Evaluation. Process of reviewing courseware for technical accuracy, instructional soundness, and suitability for use by instructor, evaluator and student in media and facility; e.g., small group tryout, audit, and analysis.

Frequency. Number of occurrences of a task/subtask in a specific period of duty (1 flight, 1 trip, 1 month, 1 year, etc.) How often a task/subtask is performed.

Instructional Delivery Methods. See method.

Job. Duties, tasks, subtasks to be performed by an individual.

Knowledge. Specific information required to enable a student to develop the skills and attitudes to effectively recall facts, identify concepts, apply rules or principles, solve problems, and think creatively. It is demonstrated through actual performance.

Lesson. A meaningful division of learning consistent with the method of study, learning, or testing of performance (proficiency) objectives. The third level of curriculum definition (Segment, Module, *Lesson,* Lesson, Element).

Lesson Element. A subgroup of activities within a lesson. It is the fourth level of curriculum detail (Segment, Module, Lesson, *Lesson Element*).

Line Operational Simulations (LOS). A Line Operational Simulation is a training and evaluation scenario that simulates an operational flight and that accurately replicates interaction among a flight crew and between a flight crewmember and dispatch personnel, other crewmembers, air traffic controllers, and ground operations. These simulations are conducted for training and evaluation purposes and include abnormal and emergency occurrences. For additional information, see AC 120–35, as amended, "Line Operational Simulations.")

Media. Physical means for providing the instructional content. Includes entire set of instructional presentation materials; e.g., workbooks to simulators.

Method. (1) An ordered or systematic process for achieving an end; (2) A mode of procedure for instruction or evaluation; e.g: lecture, seminar; individual or group interactive procedural training; computer-based; event or scenario simulation; written, aural, or automated quiz or test; manual or automated performance measurement.

Module. A group of subject matter under a specific curriculum segment. Second of four curriculum levels of detail (Segment, *Module,* Lesson, Element).

Motor Skill. The eye to hand (and/or foot) coordination involved in interface of the man with the machine. Synonymous with "hands-on skill."

Objective. Statement of behavior including performance statement, conditions under which the performance occurs, and the standards to which the performance will occur to be correct or

adequate. See also "proficiency objective."

Performance Statement. A statement of physical and/or cognitive activities which, when executed or carried out, will complete the work required for a specific portion of a job. Specific portions are defined as task, subtask and elements.

Planned Hours. The estimated amount of time (as specified in a curriculum segment outline) that it takes an average student to complete instruction, demonstration, practice, and evaluation, as appropriate, to reach proficiency.

Proficiency Objective. An objective containing the criteria for a required level of performance.

Proficiency Objective Criticality. Relative importance of a proficiency objective as it relates to the safe outcome of an operation. Used to determine the need for attention in training and evaluation. The determination is based on rating/ranking of consequence of error and relative difficulty. Relative difficulty should consider frequency of occurrence in normal operations as well as basic complexity and time compression.

Provisional Approval. FAA approval of the fitness, willingness and ability of a training center operation to conduct a generic course of instruction by make, model and series aircraft (or variant). FYI: Provisional approval of a generic curriculum does not constitute approval to conduct training for a specific part 121 or 135 applicant.

Qualification Standards. The terminal and supporting proficiency objectives coupled with test and evaluation strategies (where, how and by whom measured). Qualification Standards and previous experience provides a baseline of mastery for a job. Demonstration that an individual has met certain or all of these standards may lead to certification.

Segment (Instructional). See curriculum segment.

Skill. An ability to perform an activity or action. Divided into motor/hands-on and cognitive categories.

Standard of Performance. Observable, measurable parameters of performance with tolerances; e.g., course deviation degrees, + or −

Subtask. Specific separate step or activity required in the accomplishment of a task.

Summative Evaluation. Training program evaluation accomplished in a full operational setting. Usually accomplished during the first full increment of classes with a full student complement.

Supporting Proficiency Objective. A proficiency objective created at the subtask level. A document describing a supporting proficiency objective and containing all knowledge, skills, attitudes and ability behaviors in that subtask.

Syllabus. An outline arrangement of curriculum segments, modules, lessons, and lesson elements in learning order sequence. Includes the schedule for planned hours, media, methods, and scenario where applicable.

Task. Unit of work within a duty, having identifiable beginning and ending points, and resulting in a measurable product.

Task Analysis. A specific method or procedure used to: (1) Provide a detailed, sequential listing of tasks, subtasks, and elements (if required) with skill, knowledge, attitude and ability characteristics that clearly define and completely describe the job; (2) provide consideration for conditions surrounding the job both in the environment and in the equipment used; (3) provide standards (parameters and tolerances) which provide safe and effective job accomplishment; and (4) identify characteristics of: (a) consequence of error, (b) relative difficulty, (c) frequency of occurrence in specific operations, and (d) time to accomplish the task.

Terminal Proficiency Objective. The highest level of definition for an objective. A derivative of a task. Accomplishment of a terminal objective (task) includes all subtasks.

Throughput. The need for replacement personnel to fill periodic attrition at specific duty positions. Throughput may be expressed as the number of persons requiring qualification during a twelve month period.

Training Center. An independent organization that provides training under contract or other arrangement to certificate holders. A training center may be a certificate holder that provides training to another certificate holder, an aircraft manufacturer that provides training to certificate holders, or any non-certificate holder that provides training to a certificate holder.

Training or Evaluation Module. See module.

Validation. Determination that required/desired results were produced. In training systems, the methods and procedures for development, implementation and maintenance as well as performance objectives and results will be validated.

Variant. A specifically configured aircraft for which the FAA has identified training and qualification requirements that are significantly different from those applicable to other aircraft of the same make, model, and series.

11.–19. Reserved.

Chapter 2. Overview of the Advanced Qualification Program

Section 1. Introduction

20. Purpose of the Advanced Qualification Program

The AQP is a qualification program for personnel operating under FAR parts 135 and 121. It integrates a number of training and evaluation features and factors that are aimed at improving performance as compared to traditional programs. The principle factor of the AQP is true proficiency-based qualification and training. This proficiency-basis (expressed as performance objectives) is systematically developed, maintained and empirically validated.

21. Overall Objectives of the Advanced Qualification Program

The following is a list of general objectives of the AQP:

(1) To improve safety through improved training and evaluation.

(2) To be responsive to changes in industry in new aircraft technology, operations, and training methods.

(3) To enable the use of training centers.

22. General Characteristics of Advanced Qualification Programs

The following is a list of the general characteristics of AQPs:

(1) Participation is voluntary.

(2) An AQP will employ innovative training and qualification concepts.

(3) It may build upon an existing training program or be completely new.

(4) Qualification of the AQP program will be based on individual and team performance expressed as proficiency objectives and on the structure and maintenance of all elements (curriculum, facilities, training equipment, instructors, evaluators, courseware and quality assurance) of the program.

(5) Individual and team proficiency, and the AQP itself, will be empirically validated by data collection and analysis.

(6) Training will be systematically developed with an audit trail for all training and data requirements.

(7) The methods used for development, implementation and maintenance of program operations will be continued throughout the life of the program.

23. Requirements of Advanced Qualification Programs

AQPs will:

(1) Accommodate make, model, and series aircraft (or variant).

(2) Provide three types of curriculums: indoctrination (for new hires, new instructors and new evaluators); qualification; and continuing qualification curriculums for every duty position.

(3) Provide data that validates, proficiency-based qualification of personnel which meets or exceeds existing part 121 and/or part 135 standards.

(4) Conduct training and evaluation in a crew or team environment.

(5) Train and evaluate Cockpit Resource Management (CRM). AC 120–51, "Cockpit Resource Management Training," as amended, provides additional guidance on CRM training. Specific CRM factors are described in the AC. Objectives and objective measures will be developed and applied for each factor for every task and subtask as applicable.

Note: CRM issues and measures are not completely developed at this writing. AQP is expected to support the further development of CRM. Collection and analysis of anonymous data (not identified with a named individual) will validate the CRM factors as well as overall crew performance. Until CRM performance factors can be validated, data should be collected without pass/fail consideration. However, correction of below standard performance to standard is expected. For measuring CRM factors a 5-point rating scale is suggested with 3 equating to satisfactory performance.

(6) Use Line Operational Simulations for both training and evaluation. Guidance for conducting Line Operational Simulations is provided in AC 120–35, as amended, "Line Operational Simulations."

(7) Train and evaluate instructors and evaluators.

(8) Provide data to the FAA to validate training methods and the training program.

(9) Integrate appropriate advanced flight training equipment. A level 6 or 7 flight training device or a flight simulator will be required to support line operational scenarios.

(10) Support FAA analysis of automated performance data. Performance data gathered during proficiency evaluations will be provided to the FAA in digital form for use in an automated database.

(11) Provide an AQP management plan that includes a transition plan. All applicants will provide a plan to transition from a traditional program to an AQP and from an AQP to a traditional program.

Section 2. The Five-Phase Approach

24. The Five-Phase Approach for Developing an Advanced Qualification Program

The FAA and the applicant will participate in a phased approval process. The approval activities fall into 5 phases, each consisting of one or more specific approval/validation actions. These phases are:

I—Initial Application
II—Curriculum Development
  Step 1—Develop Proficiency Objectives
  Step 2—Develop Syllabus
  Step 3—Develop Training Requirements and Plans
III—Training System Implementation
IV—Initial Operations
V—Continuing Operations

AQP curriculum development will use a systematic process proposed by the applicant and approved by the FAA. Figure 2–1 illustrates how the phased approval actions interface with development, implementation, and operation of an AQP. Detailed administrative procedures for the phased approval process are provided in chapters 7 and 8.

25. Advanced Qualification Program Validation

An AQP will be evaluated for overall conformance with major objectives. These objectives include: improving safety by training and qualifying students to proficiency, employing Line Operational Simulation for training and evaluations, incorporating CRM principles, improving instructor and evaluator qualification programs, using a crew or team complement for training and qualification, and using appropriate advanced training equipment. Two classes of data will be generated to support evaluation:

a. *Program Audit Database.* The Program Audit Database will be created and maintained throughout the five phases of the FAA approval process. The data will be used to validate program development, implementation and maintenance. Documentation of specific activities required in chapter 7 will be provided to the FAA. (A list of documents appears in appendix D.)

b. *Performance/Proficiency Database.* The Performance/Proficiency Database will be generated during Phases III, IV and V of the approval process. It will provide student, instructor, and evaluator performance/proficiency data to validate the effectiveness of the AQP. The data will be one means used to identify any changes required to improve the AQP. It will also be used to develop proficiency projections, to establish group performance norms, and to verify and validate qualification requirements. Performance/proficiency data will be used to support research and development of CRM principles, methods, and measures.

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ADVANCED QUALIFICATION PROGRAM

5 PHASES OF APPROVAL - - DEVELOPMENT, IMPLEMENTATION AND OPERATION ACTIVITIES

PHASES	DEVELOPMENT	IMPLEMENTATION	OPERATION
INITIAL APPLICATION	Cover Letter/Transition Plan Supporting Data Phase 1 Approval		
CURRICULUM DEVELOPMENT			
STEP 1- Develop Proficiency Objectives	Supporting Task Analysis Prepare Proficiency Objectives Student Entry Level Analysis Qualification Standards		
STEP 2- Syllabus Development	Objectives into Curriculum Lesson Development Lessons into Modules, Segments		
STEP 3- Training Requirements Development with Implementation/Operations Plan	Establish Training Resource Requirements Implementation and Operations Plan		
TRAINING SYSTEM IMPLEMENTATION		Courseware Development and Implementation Qualification of Instructors and Evaluators Formative Evaluation	
INITIAL OPERATIONS			Summative Evaluation Crew Training all Curriculums
CONTINUING OPERATIONS			All Training and Evaluation Quality Assurance Program Maintenance

Fig. 2-1

c. *Integration of the Two Databases.* Together the two databases provide the information needed to evaluate and control an AQP process. Each database is independent but interacts with the other. Changes to certain parts of the Program Audit Database will result in changes to training and/or results of proficiency evaluations. Conversely, undesirable proficiency evaluation results may indicate the need for changes to the training program which require changes in the Program Audit Database.

d. *Data Control Procedures.* This AC lists the documents required to provide the data necessary to apply for and operate under an AQP. All documents and document sections will be titled as indicated throughout chapter 7. A complete listing of titles in development sequence is provided in appendix D. Each document will have:

(1) A title page which has the applicant's identification, the revision status by number and date, and signature blocks for the applicant's assigned individuals responsible for AQP PROGRAM CONTROL and for the FAA official responsible for approval.

(2) A table of contents for the document.

26.–35. Reserved

Chapter 3. Basic Curriculum Requirements

36. Advanced Qualification Program Curriculum Requirements

For each make, model, and series aircraft (or variant) and for each duty position, three curriculums will be developed. These curriculums are indoctrination, qualification, and continuing qualification.

Examples of the subject materials and training events appropriate to indoctrination, qualification, or continuing qualification curriculums appear in appendices A, B, and C of this AC. These examples are based on requirements in FAR parts 121 and 135. An applicant with an approved program may follow the standard requirements expressed in those regulations or may generate new curriculum content and format through the process described in chapter 7 of this AC. In all cases, terminal and enabling proficiency objectives will be created (as explained in chapter 7) that include CRM principles and use Line Operational Simulation for training and evaluation. Differences between standard regulatory requirements and those specified in an operator's AQP authorized under SFAR–58 will be identified by the applicant. The program proposed by the applicant must provide individual and crew proficiency equivalent to or better than that provided by traditional programs.

37. Indoctrination Curriculum

An indoctrination curriculum consists of all training elements which will be learned and evaluated before an individual may begin a qualification curriculum. Indoctrination curriculum segments are ground training, special purpose training, and evaluation. Two distinct areas of ground training indoctrination are: (1) Certificate holder-specific training and, (2) duty position-specific training. Certificate holder-specific training acquaints crewmembers, dispatchers, instructors, evaluators, and other operations personnel with company policies and practices and general operational knowledge. Duty position-specific training provides the basic aeronautical knowledge needed to begin aircraft-specific training. Emergency situation training, which is part of indoctrination, is partially certificate holder-specific and partially duty position-specific.

For an example indoctrination curriculum, see Figure 3–1. For detailed information on subject matter appropriate to a standard indoctrination curriculum, see appendix A.

38. Qualification Curriculums

a. *General.* An AQP must include a qualification curriculum for each duty position in each make, model, and series aircraft (or variant). Figure 3–2 provides an example of a qualification curriculum. Each qualification curriculum will include ground training activities, flight training activities, evaluation, special purpose training, and supervised operating experience. Each AQP may also include a curriculum segment or evaluation modules which describe in detail the practical tests which will be used for persons who will acquire airman certificates, or additional category, class, instrument or type ratings through an AQP. CRM and Line Operational Simulations must be integral to any qualified curriculum.

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SAMPLE OF AN INDOCTRINATION CURRICULUM

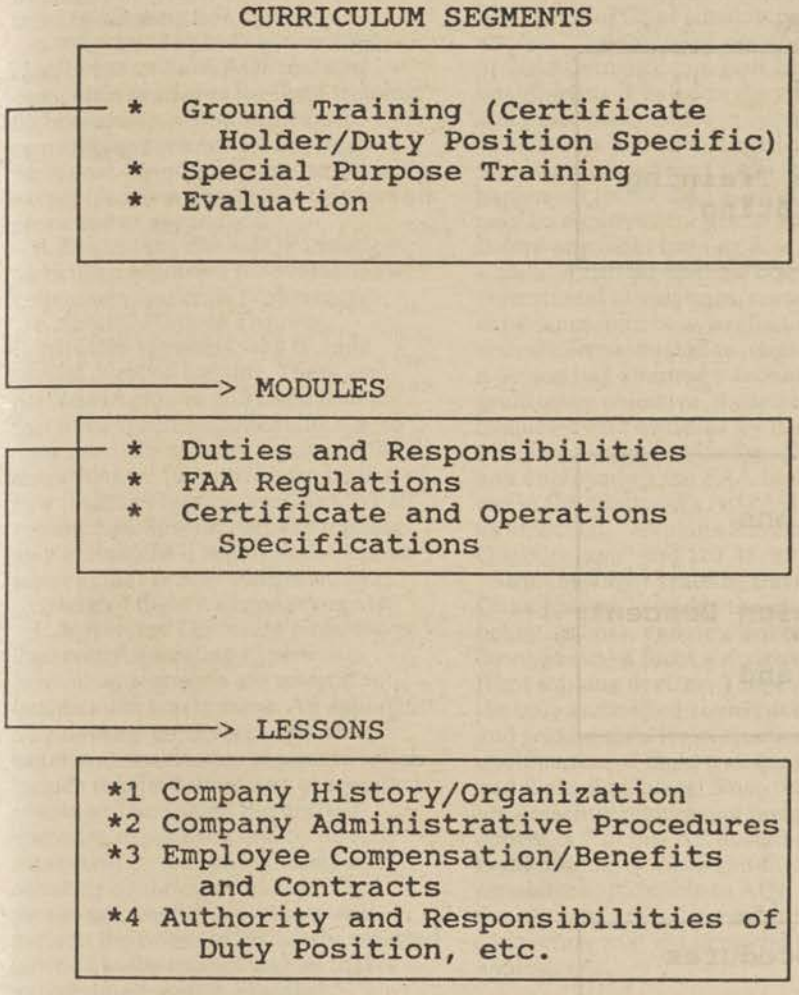

Fig. 3-1

SAMPLE OF A QUALIFICATION CURRICULUM
(FOR PIC B727)

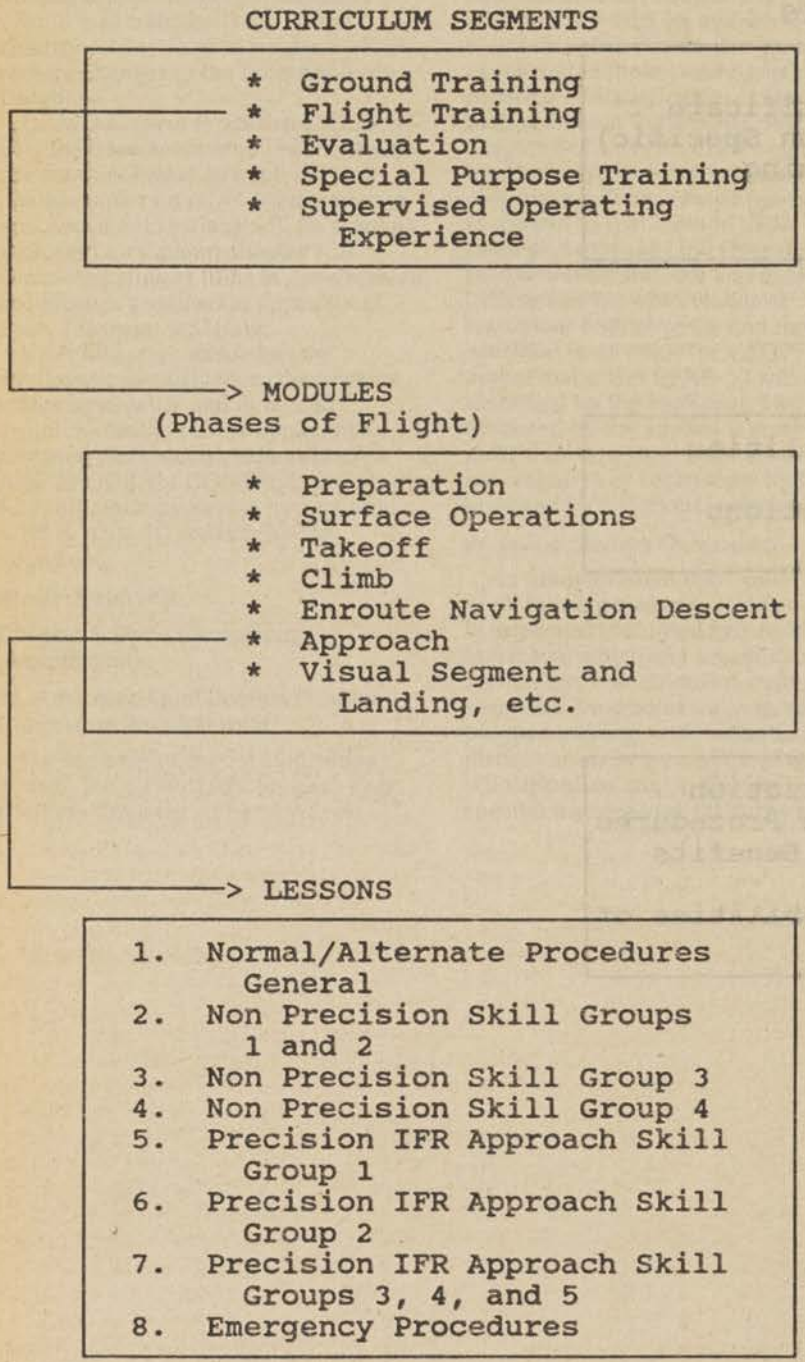

Fig. 3-2

BILLING CODE 4910-13-C

b. *Pilot and Flight Engineer Ground Qualification Activities.* To be qualified for a particular duty position in a specific make, model, and series aircraft (or variant), a person will receive aircraft-specific ground training. This training includes general operational subjects, aircraft systems, aircraft system integration, and emergency drill training. For further details on ground training subjects, see appendix B.

c. *Pilot and Flight Engineer Flight Qualification.* Each AQP includes curriculum segments for flight training, flight evaluation, and supervised operating experience for appropriate personnel. Standard flight qualification events for pilots and flight engineers are presented in appendix C.

d. *Evaluation.* Each AQP includes curriculum segments for evaluation of individuals and crew proficiency.

e. *Special Purpose Training.* Curriculum segments may include special purpose training. These are portions of ground and flight training that have specific application; e.g., to crewmembers who are in international operations, or for initial introduction of new flight operations, such as CAT III approaches. Special purpose training may initially be a separate curriculum segment that is later integrated into ground and flight training segments.

f. *Supervised Operating Experience.* Supervised operating experience curriculum segments are integral to qualification curriculums. An applicant may develop supervised operating experience curriculum segments which include required iterations of specific events and activities. Supervised operating experience will be directly supervised by an appropriately and currently qualified evaluator. The person gaining the experience will perform the duties of his newly assigned position at the control station that is appropriate for pilot, engineer, instructor, or evaluator. For pilots and flight engineers, supervised operating experience may be obtained only during actual flight operations.

g. *Airman Certification.* Curriculum segments may include evaluation modules developed to provide alternative practical tests for airman certification. In these modules the applicant must show, to the FAA's satisfaction, that the proposed test will ensure individual competency that equals or exceeds the standards in part 61, 63, or 65 and ensures each person certificated through an AQP has demonstrated satisfactory interactive CRM skills. (See chapter 4 of this AC.)

h. *Planned Hours.* Qualification curriculums will include planned hours for ground training, flight training, evaluation, and supervised operating experience.

39. Use of Flight Training Equipment in Qualification Curriculums

Flight training equipment consists of seven levels of flight training devices, four levels of flight simulators, and aircraft. The approved use of each item of flight training equipment for airman qualification is listed in the maneuvers and procedures tables in appendix C. The devices and simulators listed in the tables are the types of flight training equipment (other than aircraft) which may be approved for use in an AQP. Before any flight training device or flight simulator can be used for LOFT, Line Operational Simulations, recency of experience activities, evaluation or instruction conducted to assess whether a person has attained a terminal proficiency objective, it must be evaluated and qualified by the National Simulator Program Manager (NSPM) and approved by the FAA for its specific use in the applicant's AQP. ACs 120–40, as amended, "Airplane Simulator Qualification," and 120–45, as amended, "Airplane Flight Training Devices Qualification," provide the qualification policy, criteria, and detailed technical descriptions of flight simulators and flight training devices. Those ACs are the only authorized source documents and will be used for evaluation and qualification of flight training devices and flight simulators. Since those ACs are presently undergoing revision, appendix F of this AC describes the flight training devices and flight simulators applicable to AQI. These descriptions are to be used in connection with the approval tables in appendix C.

40. Continuing Qualification Curriculum

a. *General.* AQPs must include continuing qualification curriculums based on continuing qualification cycles. Continuing qualification cycles should efficiently utilize available training resources and accommodate appropriate combinations of environmental and operational situations.

b. *Applicability.* Continuing qualification applies to all persons subject to an AQP, including instructors and evaluators. In an AQP, fully qualified persons are automatically scheduled for continuing qualification activities specifically designed to maintain their proficiency in their duty positions and aircraft assignments. A person who is qualified on more than one make, model, and series aircraft (or variant) or in more than one duty position should be simultaneously enrolled in a separate continuing qualification curriculum for each assigned aircraft and duty position. However, a person who is simultaneously assigned as a flight crewmember, instructor, and/or evaluator on the same aircraft may be enrolled in a continuing qualification curriculum which combines the activities necessary to maintain skill and proficiency in all duty positions.

c. *Types of Activities.* Continuing qualification curriculums should outline a uniform timetable for the following: (i) Continuing qualification ground training; (ii) continuing qualification flight proficiency training; (iii) evaluation which includes flight proficiency evaluations and online evaluations; (iv) currency activities (including recency of experience activities); and (v) special purpose training. Continuing qualification should have a proper balance between training, evaluation, and currency. Generally, continuing qualification curriculum segments contain the same elements and events as qualification curriculum segments; however, continuing qualification segments are not as detailed for each module or element and therefore require fewer training hours. Continuing qualification curriculum segments exclude certification and supervised operating experience modules. Special purpose training segments in continuing qualification curriculums are used for the same purposes as in qualification curriculums. For an example of a continuing qualification curriculum see Figure 3–3.

(1) *Continuing Qualification Ground Training.* Continuing qualification will include ground instruction and evaluation for pilots, flight engineers, instructors, evaluators, and other operations personnel that includes a general review of knowledge and skills, attitudes and abilities covered in qualification training as well as updated information. Ground instruction reviews basic airmanship, including operational techniques, emergency situation training, the knowledge, skills, and attitudes required to operate a specific aircraft, and information concerning newly developed procedures. It includes newly developed safety information and newly modified airmanship techniques.

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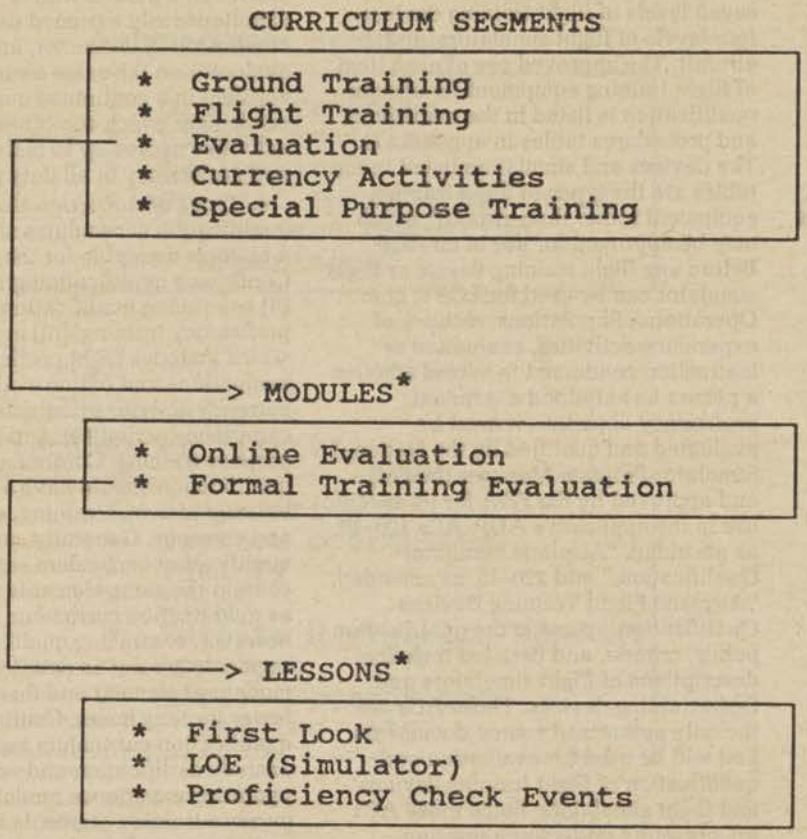
SAMPLE OF A CONTINUING QUALIFICATION CURRICULUM
(FOR PIC B727)



* Continuing Qualification Curriculums contain similar, less detailed modules/elements as compared to Qualification Curriculums.

Fig. 3-3

BILLING CODE 4910-13-C

(2) *Continuing Qualification Flight Proficiency Training.* Pilots, flight engineers, and those instructors and evaluators who conduct flight training or flight evaluations will complete proficiency training designed for their respective duty position in an aircraft, flight training device, or flight simulator on normal, alternate, abnormal and emergency flight events. Flight proficiency training permits pilots and engineers to experience and practice the procedures and maneuvers (events) which are not normally encountered in day-to-day flight operations. For instructors and evaluators who are limited to conducting their duties in flight simulators and flight training devices, flight proficiency training may be conducted in flight simulators and flight training devices.

(3) *Evaluations.* Continuing qualification must include evaluation in all events and major subjects required for original qualification. Flight proficiency evaluations and online evaluations are described below.

(i) *Flight Proficiency Evaluations.* Flight proficiency evaluations may be conducted in a flight training device, aircraft, flight simulator or a combination thereof. Their purpose is to permit evaluation of pilots, flight engineers, instructors, and evaluators as they perform the procedures and maneuvers specified for evaluation in the continued qualification curriculums.

(ii) *Online Evaluations.* Online evaluations are evaluations of an entire flight crew which are conducted by an evaluator during actual part 121 or part 135 flight operations or during operationally oriented flights such as ferry flights or proving flights. Online evaluations must be included in the continuing qualification curriculums for pilots in command only. However, during online evaluations each person performing duties as a pilot in command, second in command, or flight engineer must be individually evaluated as to: (1) Proficiency in the particular aircraft, crew position, and type of operation; and (2) skills and ability to operate effectively as part of a crew. To conduct such an evaluation, an evaluator will hold the airman certificates and ratings for all individual positions being evaluated.

(4) *Flight Crewmember Currency Activities.* The applicant's AQP should show compliance with either the currency requirements in FAR part 121.439 or specific, equivalent currency activities. The currency activities schedule, if not met during line operations, may be satisfied through a flight currency reestablishment activity specified in the continuing qualification curriculum. Currency activities for instructors and evaluators who are not "line crewmembers" will be specified in each AQP. These instructor and evaluator activities should enable each instructor or evaluator to maintain proficiency in teaching and evaluating the events the person is authorized to perform.

d. *Line Operational Simulations.* In an AQP, Line Operational Simulations include both training and evaluation during operational flight simulations designed to upgrade the skills and proficiency of flight crewmembers both as individuals and as team members. These activities require the team to make decisions concerning operations while simultaneously requiring high quality demonstrations of individual abilities. CRM skills should be seriously tested and challenged by the scenarios designed for Line Operational Simulations. Guidance for this training and evaluation are set forth in AC 120–35, as amended, "Line Operational Simulations," and AC 120–51, as amended, "Cockpit Resource Management."

41. Continuing Qualification Cycles

Activities in a continuing qualification curriculum must occur within a scheduled period called a "continuing qualification cycle." The continuing qualification cycle should provide sufficient detail to show compliance with the SFAR. Elements of ground training activities, flight training activities, proficiency and online evaluations and currency activities should be specifically identified. The schedule for the cycle should specify the period between each type of activity and the order in which activities will be performed. Developing a continuing qualification activity schedule involves selecting, revising, and ordering modules (with related proficiency objectives) from indoctrination and qualification curriculums. These modules should be regularly revisited to maintain both individual and crew proficiency. Each continuing qualification curriculum will identify the frequency of training sessions at a training facility for each person qualified under an AQP. During a continuing qualification cycle all terminal proficiency objectives must be trained and evaluated.

a. *Evaluation Period.* Each continuing qualification cycle must include at least one evaluation period. All critical proficiency objectives will be trained and evaluated during this period. (See chapter 7 discussion of critical proficiency objectives.) The initial evaluation period duration cannot be more than 13 months. For an illustration of the interrelationship between training sessions, evaluation, and currency activities within a continuing qualification cycle, see Figures 3–4. Events that occur within an evaluation period are:

(1) *Training Sessions.* Each evaluation period must include at least one training session, but may include two or more. Training sessions cannot be more than 13 months apart. However, a training session that occurs during the 2 months preceding the last month of an evaluation period will be considered to occur on schedule.

(2) *Online Evaluation.* For pilots in command, an online evaluation must be scheduled in the calendar month that includes the midpoint of the evaluation period. However, to allow flexibility, the online evaluation may be completed during the month after or the month before the midpoint month.

(3) *Proficiency Evaluations.* For pilots in command, seconds in command, flight engineers, and other persons covered by an AQP, a proficiency evaluation in an aircraft, flight training device, and/or flight simulator must be completed during each evaluation period. Typically, the proficiency evaluation will occur during a required training session; however, if more than one training session is completed during an evaluation period, proficiency evaluation may be divided among training sessions. Proficiency evaluation of non-critical proficiency objectives may be spread throughout the continuing qualification cycle.

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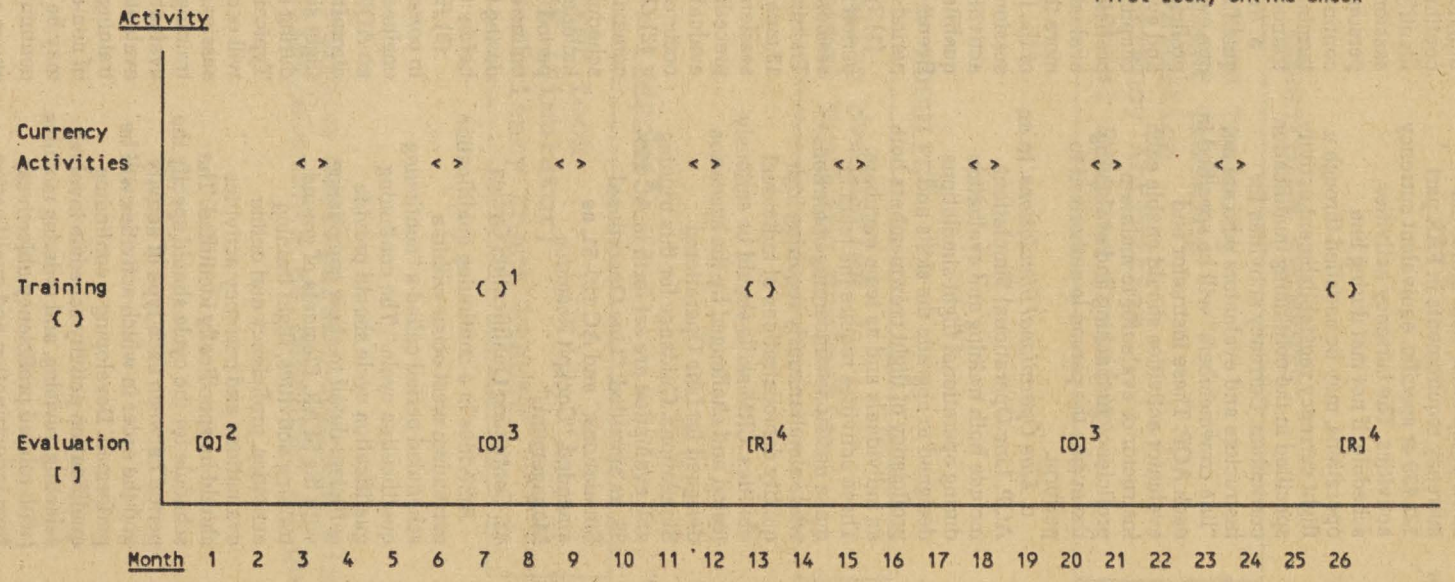
CONTINUING QUALIFICATION CYCLE EXAMPLE

SKYWAY'S AVIATION PILOT-IN-COMMAND LEAR 23/24 AIRCRAFT

CONTINUED QUALIFICATION CYCLE

< > = Currency - Repetitive Happenings to Maintain/Establish Currency
( ) = Training - Ground, Flight, Simulator
[ ] = Evaluation - Proficiency Check, LOE, First Look, Online Check



1 ( ) = First Training Activity for Newly Qualified PIC's Only
2 [Q] = Evaluation for Initial Qualification
3 [O] = Online Check (PIC)
4 [R] = Recurring Training Session and Proficiency Check (PIC/SIC/FE)
Note: The specific details of each activity are explained in SKYWAY's Continuing Qualification Curriculums.

Figure 3-4

b. *Extensions.* The FAA may approve extensions of the continuing qualification cycle, in increments not exceeding 3 calendar months, up to a maximum of 39 months upon demonstration by an applicant that the extension is warranted. The FAA may also approve an extension of an evaluation period in increments not exceeding 3 calendar months up to a maximum of 26 calendar months. To obtain approval for extension of a continuing qualification cycle or evaluation period, an applicant must show that individuals subject to the AQP are able to maintain their knowledge and skills under the already approved schedules and that a rational basis exists for believing that no loss of knowledge, skill, or abilities would result from the extension. An extension will be allowed to continue, or an additional extension will be granted, only if an operator's record and independent FAA evaluation show that the extension is appropriate as a means to maintain or increase the level of crewmember or dispatcher competency. The FAA will consider approving extensions to the duration of evaluation periods and continuing qualification cycles if evidence substantiates that the extension will maintain or increase the level of safety in air transportation.

c. *Validation.* The continuing qualification cycles and evaluation periods will be subject to continued demonstration of overall effectiveness. The demonstration will be dependent on the data submitted by the applicant for program validation. (See chapter 9 for validation requirements.) To ensure adequate individual and crew qualification, an applicant must show that its AQP has the capability to monitor each individual's demonstrated proficiency.

42. Flight Crewmember Requalification

A person who fails to comply with the requirements of a continuing qualification curriculum becomes unqualified for the duty position and must be requalified to resume serving in that duty position. An AQP should provide means for requalification. An AQP should also establish time limits beyond which an individual would be required to repeat the entire indoctrination curriculum and/or qualification curriculum to requalify.

43.–50. Reserved

Chapter 4. Airman Certification

51. *General*

SFAR 58 provides an alternative practical testing means to certificate pilots, flight engineers, and aircraft dispatchers. At this time, the process for certification of dispatchers through AQPs has not been formulated but will be addressed in a future version of this AC. At this time, the criteria developed for certification of pilots through AQPs is limited to pilots who hold at least a Commercial Pilot Certificate with an Instrument Rating. In the future the FAA may establish criteria for other types of pilots. Until these criteria are developed the FAA will review on a case by case basis any applicant's request for other types of pilot certification under an AQP.

52. Practical Test Criteria

An applicant for certification must be eligible under the applicable requirements of parts 61, 63, or 65, except that an operator may develop practical tests for certification which, when specifically approved by the Manager, Air Carrier Training Branch, may be used in place of the practical tests prescribed in parts 61, 63, or 65 of the FAR. Development of practical tests to be used in place of the practical tests prescribed in parts 61, 63, or 65 shou1d be based on the tables in appendix C of this AC and other relevant information such as aircraft flight manuals and Flight Standardization Board reports. These practical tests should consist of maneuvers and procedures for pilots; procedures and basic skills for flight engineers; and knowledge and procedures for aircraft dispatchers. Practical tests proposed by the operator should be shown to provide individual proficiency equivalent to or better than that provided by the practical tests prescribed in parts 61, 63, or 65 of the FAR.

53. Completion of Qualification Curriculum

An applicant for airman certification under an AQP will successfully complete the appropriate qualification curriculum.

54. Demonstration of Individual Skills

Applicants for certification will show competence in required technical skills and CRM skills in actual or simulated operational scenarios that test both types of skills together.

55. Authorized Evaluation Personnel

Certification tests will be conducted by a person who is designated in writing by the Manager, Air Carrier Training Branch, as qualified to conduct the particular evaluation. Only the following personnel may be designated by the Manager, Air Carrier Training Branch, to conduct airman certification evaluations in an AQP.

a. *FAA operations inspectors* who are currently qualified on the make, model, and series aircraft (or variant) and who are thoroughly familiar with the specific alternative evaluation process in the particular AQP.

b. *Aircrew program designees* (APDs currently qualified on the make, model, and series aircraft (or variant), who have completed evaluator qualification and maintain continuing qualification as evaluator under the particular AQP.

c. *Designated examiners* currently qualified on the make, model, and series aircraft (or variant), who have completed evaluator qualification and maintain continuing evaluator qualification under the particular AQP.

56. Disposition of Airman Certification Documents

Persons authorized to conduct airman certification evaluations under an AQP will issue either a temporary airman certificate or notice of disapproval for each certification evaluation conducted and will write "SFAR 58" in the top margin of the application form. The completed file will be mailed to the FAA Flight Standards District Office identified in the individual AQP for further disposition in accordance with FAA internal directives.

57.–60. Reserved

Chapter 5. Training and Evaluation of Instructors and Evaluators

61. General

Each AQP (including provisional AQP curriculums for training centers) should provide instructor and evaluator indoctrination, qualification, and continuing qualification.

62. Training and Evaluation

Each instructor and evaluator should receive training in and be evaluated on the methods of qualification and the use of flight simulators, flight training devices, aircraft, and other media used in the AQP. A means of maintaining currency in the use of these methods and media should be included in each instructor and evaluator continuing qualification curriculum.

63. Instructor Courses

a. *Instructor Indoctrination.* Indoctrination for instructors should include the following elements:

(1) The learning process.

(2) Elements of effective teaching.

(3) Student evaluation, quizzing, and testing.

(4) Overview of AQP program development, implementation, and operation policy.

(5) Lesson preparation and application.
(6) Classroom instructing techniques.
(7) Techniques for instructing in the cockpit environment.

b. *Instructor Qualification.* Instructor qualification should include development of knowledge and skills in the following:
(1) Effective use of specific flight training devices and flight simulators used in the AQP.
(2) Limitations on use of training equipment used in the AQP.
(3) How to conduct training modules for students with varying backgrounds and varying levels of experience and ability.
(4) Evaluation of performance against objective standards.
(5) Effective preflight and postflight instruction.
(6) Instructor responsibilities.
(7) Effective analysis and correction of common errors.
(8) Teaching/Facilitation of CRM skills.
(9) Performance and analysis of standard flight events and procedures.
(10) Qualification at the instructor duty position in the flight simulator, flight training device, and/or aircraft.
(11) Safety considerations in the training environment.
(12) Data gathering procedures.

c. *Instructor Continuing Qualification.* Each instructor continuing qualification curriculum segment should include a schedule for recency of instructor experience and for ground and flight training to enhance, upgrade, and maintain each instructor's knowledge, skills, and abilities. Each instructor's continuing qualification curriculum should include a schedule for critical examination of each instructor's abilities.

64. Evaluator Training and Evaluation

Persons selected to be evaluators should have experience as instructors and have shown their ability to observe and judge the effectiveness of individual training courses and of individual instructors, as well as the overall effectiveness of an AQP. All evaluators will complete curriculums which consist of indoctrination and qualification. After qualifying, evaluators will maintain their qualification through participation in a continuing qualification curriculum segment specifically designed to enhance evaluator skills, knowledge, and abilities. Whenever a person is maintaining qualification as both an instructor and an evaluator, a single continuing qualification curriculum segment may be developed to maintain both skills.

a. *Content of Evaluator Indoctrination Curriculum.* Evaluator indoctrination curriculum segments include the following elements:
(1) Evaluation policies and techniques.
(2) The role of the evaluator.
(3) Administrative procedures.
(4) General safety considerations.
(5) Evaluating CRM skills.

b. *Content of Evaluator Qualification Curriculum.* Evaluator qualification curriculum segments should include the following elements and events:
(1) For each crewmember position requiring a particular evaluation the methods of conducting:
(i) Online evaluations.
(ii) In flight proficiency evaluations.
(iii) Proficiency evaluations in flight simulators and/or flight training devices.
(iv) Special purpose evaluations (e.g., long range navigation).
(2) The standards for the evaluations in (1).
(3) When applicable, the methods and standards associated with airman certification evaluation.
(4) If applicable, how to conduct evaluations while simultaneously serving as PIC, SIC, or safety pilot.
(5) Safety considerations for the various types of evaluations.
(6) Safety considerations particular to the make, model, and series aircraft (or variant).
(7) How to evaluate instructors.
(8) How to evaluate other evaluators.
(9) Company policies with regard to the conduct of evaluations.
(10) FAA policies with regard to the conduct of evaluations.
(11) Administrative requirements particular to evaluations.
(12) Evaluating CRM skills.
(13) Briefing and debriefing techniques.
(14) Data gathering procedures.

c. *Content of Evaluator Continuing Qualification Curriculum.* Each evaluator continuing qualification curriculum segment should include a schedule for recency of evaluator experience and for ground and flight training to enhance, upgrade, and maintain each evaluator's knowledge, skills, and abilities. Each evaluator's continuing qualification curriculum should include a schedule for critical examination of each evaluator's standardization and abilities.

65. Instructor and Evaluator CRM Training and Evaluation

All instructors and evaluators should receive instruction and be evaluated in CRM objectives and training methods. For additional information on CRM. (See AC 120–51, as amended, "Cockpit Resource Management Training.")

66.–70. Reserved

Chapter 6. Training Centers

71. Purpose.

This chapter provides guidance to (1) any training center that intends to provide training, qualification, or evaluation for a certificate holder's AQP, and (2) any certificate holder that intends to arrange for a training center to accomplish training, qualification, or evaluation under an AQP.

72. General Guidelines

a. *Approval: When Required.* A certificate holder that provides qualification under an AQP to its own employees does not need to be approved as a training center. A certificate holder that provides training, qualification, or evaluation for other certificate holders and any other organization that provides training, qualification, or evaluation for certificate holders is considered a training center.

b. *Provisional Approval.* A training center should obtain provisional approval of each curriculum segment or portion of a curriculum segment that it proposes to offer for use by others. A training center would not have to have a contract or other arrangement with a particular certificate holder to obtain provisional approval. However, provisional approval does not convey automatic approval for use of a provisionally approved curriculum segment as part of a certificate holder's AQP. Permission to use a training center's provisionally approved curriculum segment as part of a particular certificate holder's AQP depends on the FAA's assessment of the adequacy of the training center's curriculum material to meet the certificate holder's specific needs. Modification of the training center's curriculum materials usually will be required to ensure that the material conforms with the certificate holder's training and qualification needs. Instructors and evaluators employed by training centers will demonstrate competency to teach and evaluate in conformity with the certificate holder's approved training and qualification standards, operational methods, techniques, and procedures.

c. *Certificate Holder Operations-Specific Training.* Generally, operations-specific (i.e., specific to a certificate holder) training will be provided directly by a certificate holder rather than by a training center. A certificate holder that wishes to contract with or otherwise

arrange for conduct of operations-specific curriculum segments by a training center will show that the training center, including the center's instructors and evaluators, is fully qualified and competent to accomplish operations-specific curriculum segments.

73. Application for Provisional Approval of Training Center Curriculum Material

a. *Application for Provisional Approval.* Application is made to the Air Carrier Training Branch through the training center's local Flight Standards District Office. The application may be submitted independently by a training center or in conjunction with a certificate holder that is applying for an AQP.

b. *Five-Phase Approval Process.* Each application will be submitted through the five-phase approval process explained in Chapter 7. Provisional curriculum approval will require successful completion of Phases I, II, and III. Approval of Phase IV training will only be granted when the provisional curriculum segments are incorporated in or adapted to a specific certificate holder's AQP.

74. Approval for Use in an AQP

Approval for use of a training center's provisionally approved curriculum segments in a certificate holder's AQP will be given only at the time the certificate holder applies for approval of its AQP and only if the FAA determines that the curriculum segments are appropriate for the certificate holder's required training.

75.–80. Reserved

Chapter 7. Five Phases of the Advanced Qualification Program

Section 1. Introduction

Each of the five phases for developing implementing, and maintaining an AQP are described in detail in this chapter. Each phase and step must be FAA approved before the applicant may proceed to the next step or phase. Each phase and step consists of specific activities including the documentation of those activities. The documentation is established and maintained as part of the Program Audit Database. A description of the administrative procedures for each phase or step of the approval process is provided in chapter 8.

Section 2. Phase I: Initial Application

81. General

In the initial application phase, the applicant must establish its intent and approach for developing an AQP. The applicant will develop the methods to meet specific regulatory requirements. The applicant will also develop a Supporting Data Package that includes the basic information used to develop, implement, and operate a proficiency-based qualification program. This data package becomes part of the Program Audit Database and is kept current throughout the life of the AQP.

82. Program Audit Database

The organization of the Program Audit Database will be established during Phase I of the approval process. The database will continue to be generated and maintained throughout all five phases.

83. Documentation for Phase I

To begin the application process the following documents are required:

a. *Program Audit Database Master List.* A master list of all documents in the database is required for each make, model, and series aircraft (or variant). A sample list of these documents is presented in Appendix D. All documents should be listed by title and have a corresponding summary description.

b. *Application Cover Letter.* The application cover letter will address at least the following issues:

(1) The applicant's intent to develop, implement, and operate an AQP.

(2) The specific concept, approach and methodology for developing the AQP (specific methods and procedures for all steps).

(3) The specific concept, approach and methodology for implementing the AQP.

(4) How and to what extent the AQP will differ from a traditional training program.

(5) How the AQP will be operated and maintained.

(6) How CRM will be integrated and measured.

(7) How security and hazardous material training will be addressed (as applicable).

(8) How Line Operational Simulation concepts will be integrated into both evaluation and training.

(9) How existing levels of performance and safety will be met or exceeded.

c. *Transition Plan.* An applicant will include a separate transition plan (containing a calendar of events) to accompany the cover letter. Transition from one program to another (traditional to AQP or AQP to traditional) may include a period of overlap as one program is phased in and the other phased out. The following guidelines for transition are offered:

(1) Currently qualified personnel may transition between traditional recurrent training curriculums and continuing qualification curriculums.

(2) Personnel who have completed initial, transition or upgrade curriculums may enter a continuing qualification curriculum.

(3) Personnel who have completed a traditional basic indoctrination curriculum, but have not completed an initial, transition or upgrade curriculum, should not enter AQP qualification curriculums until they complete the difference items for the AQP indoctrination curriculum.

(4) Partial transition plans are not acceptable.

(5) The transition plan may provide for incremental implementation of indoctrination, qualification, and AQP continuing qualification curriculums in Phase IV (Initial Operations), and incremental final approval in Phase V.

d. *Supporting Data Package.* The supporting data package will include the following information:

(1) Job Listing for each make, model, and series aircraft (or variant). This requirement may be met by using existing task analyses available to the applicant in currently approved programs. A job listing shall include the following:

- Duty position (e.g., pilot in command, instructor, and evaluator).
- Task (e.g., Accomplish VOR/LOC non-precision instrument approach; or Accomplish visual landing).
- Subtask (for VOR/LOC non-precision approach) (e.g., Accomplish Procedure Turn; or Perform Final Approach Phase).

(Note: If further breakdown of subtasks is desired, elements may be used.)

(2) Aircraft configuration and performance baseline. For each make, model, and series aircraft (or variant) the following information shall be provided:

- Cockpit design layout.
- Aircraft system design.
- Training and qualification recommendations included in Flight Standardization Board reports.
- Aircraft performance.
- Aircraft flight manuals.
- Operations manuals.
- Environmental characteristics of terminals and enroute operating areas.

(3) Trainee demographics. The following demographic data will be part of the supporting data:

- Summary data for trainee experience and entry level should be provided. Entry requirements for ground and flight instructors and evaluators should be provided; e.g., previous experience working for the applicant.

Students should be identified as a group in terms of previous experience with high, low and mean experience included.

(Note: It may be desirable to create curriculums for more than one student entry level population for a single duty qualification.)

• The current and anticipated need for replacement crewmembers by duty position (throughput) should be provided.

(4) Documents governing operations. A catalogue of documents governing operations including but not limited to: Operating Specifications; Federal Aviation Regulations; Instrument Procedures; Advisory Circulars; International Civil Aviation Organization Procedures (ICAO); flight manuals; Flight Standardization Board reports; etc.

(Note: To take exception to the provisions of these or any other existing documents in developing an AQP, the applicant will identify and support the exception.)

(5) Training equipment description. This document should describe the training equipment to be used and the organization responsible for its security and maintenance. Flight simulators and/or flight training devices should be identified by make, model, serial number, and manufacturer; or by the FAA identification number assigned by the National Simulator Program Manager. Specifically, the applicant will identify any new training equipment to be used. If qualification is required, the applicant should state when it intends to submit a test guide and a request for equipment qualification. Qualification requests will be processed in accordance with ACs 120–40 and/or 120–45, as amended. (For more information on flight simulators, flight training devices, and other training equipment, see chapter 10 of this AC.)

(6) Facilities description. Each AQP submission should describe the facilities the applicant intends to use. These facilities may belong to a certificate holder or may be operated by a training center. In either case, the applicant should describe the location, type of facility, classrooms, training aids, and other features that contribute to creating and maintaining a positive learning environment.

(7) Courseware description. The applicant should describe the kinds of courseware (instructional materials) to be used. Examples include: lesson plans, audiovisual programs, workbooks, mission folders, weather briefings, etc.

(8) Operating environment description. The applicant should describe its operating environment including the complete range of physical environmental factors expected to be encountered in operations. Environmental factors are critical to development of Line Operational Simulation scenarios and meaningful proficiency objectives. Environmental factors include:

• Weather norms and extremes (e.g., *minimum* extremes of expected weather conditions.)

• Normal, abnormal and emergency equipment operation.

84. Review of the Initial Application Package

When the applicant has submitted the cover letter and supporting data, the FAA will review the application package and meet with the applicant to discuss findings. This conference *does not constitute approval.* It provides a means for the FAA to acquire an understanding of the applicant's approach and to establish communication with the applicant. After the conference, the FAA will either grant approval to continue into Phase II, Step 1, or inform the applicant of AQP application requirements which have not been met.

85. Reserved

Section 3. Phase II: General Curriculum Development

86. General: Curriculum Development

Phase II has three steps which require FAA review and approval. Step 1 is development of proficiency objectives and Qualification Standards. Proficiency objectives are established and matched with appropriate test and evaluation strategies to create Qualification Standards. Step 2 is development of a complete training curriculum and syllabus. Step 3 is development of training resource requirements and an Implementation and Operations Plan. A clear linkage will be established and maintained between the Qualification Standards developed in Step 1, the curriculum and syllabus developed in Step 2, and the training resource requirements and Implementation and Operations Plan developed in Step 3. (See Figure 7–1.) This linkage will be provided by a systematic approach to development of a complete instructional system. This chapter recommends a systematic approach and a methodology which is acceptable to the FAA. Innovation and practical application may result in equally acceptable variations. However, in any methodology used, the following list of factors should be included (or considered where appropriate) for each task, subtask, knowledge, skill, attitude and ability:

CURRICULUM DEVELOPMENT STEPS

Requirement	Development activity
Step 1	
Proficiency Objectives. Qualifications Standards.	Conduct Task/Subtask Analysis. Prepare Proficiency Objectives. Analyze Student Entry Levels. Allocate Proficiency Objectives to Appropriate Curriculum. Formulate Test And Evaluation Strategies.
Step 2	
Syllabus for: Indoctrination Qualification. Continuing Qualification.	Organize Curriculum into Segment (by Objectives). Establish Learning Order. Develop Lessons. Organize Lessons into Modules.
Step 3	
Training Resource Requirements. Implementation and Operations.	Determine Training Resource Requirements. Develop Implementation and Operations Plan.

Fig. 7–1

a. *Factors That Should Always Be Included:*

• Statement of performance.

• Environmental conditions affecting difficulty/success.

• Performance standards (parameters with tolerances).

• Abnormal and emergency procedure contingencies.

• Repetition of events needed to reach proficiency (qualification).

• Student entry level performance evaluated against proficiency objectives.

• Document references (title, page, paragraph) governing or specifying the operation.

b. *Factors That Are Necessary if Non-critical Terminal Proficiency Objectives Are To Be Identified:*

• Consequence of error to safety.

• Relative difficulty.

• Frequency of occurrence (or period between occurrence) in normal operations.

c. *Factors Required if the Flight Training Equipment Charts (Appendix C) Are Not Used:*

• Exterior visual, perceptual motion and aural cues.

• Cockpit equipment control and display characteristics required for hands-on skills.

d. *Factors That Are Necessary if Currency Events Are To Be Established for Continuing Qualification Curriculums:*

• Minimum period between rehearsals to maintain proficiency (continuing qualification).

• Frequency of occurrence (or period between occurrences) in normal operations.

e. *Additional Factors:*

• Equipment and system operation dependencies (if used for establishing learning sequences for curriculum development).

• Criterion for success upon which performance standards are based. If new performance standards are to be created this criterion should be established for each task and subtask; e.g., the tracking standards for VOR approaches are based on navigation requirements. The navigation requirements are the criteria for success.

f. *Use of Factors.* The factors listed in a. through e. above should normally be organized in a task analysis as presented in Phase II, Step 1. The task analysis of Step l will yield data for other activities in Steps 2 and 3 as well as providing the data for establishing proficiency objectives in Step 1. The FAA suggests that all task analysis factors be considered together.

Section 4. Phase II, Step 1: Proficiency Objective Development

87. General Requirements for Proficiency Objective Development

a. *Purpose.* This is the most critical step in AQP development. In this step, a task analysis will be conducted to support development and analysis of proficiency objectives and development of the syllabus in Step 2. Proficiency objectives, together with evaluation and test strategies, will be used to develop Qualification Standards. The approved task analysis, proficiency objectives and Qualification Standards become the basis for all subsequent curriculum development, implementation, and operation. Qualification Standards form much of the baseline for subsequent program validation activities.

b. *Cockpit Resource Management.* During Step 1 the applicant must use CRM factors and principles in developing proficiency objectives. Applicants should provide innovative approaches to deal with both the training and measurement of CRM. CFR factors will be incorporated into the tasks and subtasks as skills, knowledge, and attitudes. CRM factors will be individually identified in an existing task analysis and "flagged" for evaluation. If the applicant is unable to identify the CRM factors in an existing task analysis, or no task analyisis exists, a separate CRM task analysis will be accomplished. CRM factors provide much of the information required to create team or crew objectives.

c. *Hazardous Materials and Security.* The applicant will include hazardous materials and security training requirements in the task analyses and in development of proficiency objectives.

d. *Documentation Required for Phase II, Step 1.* Two documents are required for the proficiency development step. These documents are:

(1) The Supporting Task Analysis
(2) The Qualification Standards

88. Supporting Task Analysis

Development of proficiency objectives is based on a supporting task analysis. Each subtask or element (as identified in the job listing in Phase I) is analyzed for a number of factors as described in the paragraphs below. The subtasks and elements are summarized into tasks and additional factors of analysis are then accomplished. The order of the analysis activities may differ from that presented in this AC, but the analysis activities must be acomplished in some specific order acceptable to the Administrator A flow chart of suggested task analysis activities is presented in Figure 7–2. Worksheets for these activities are provided in appendix E.

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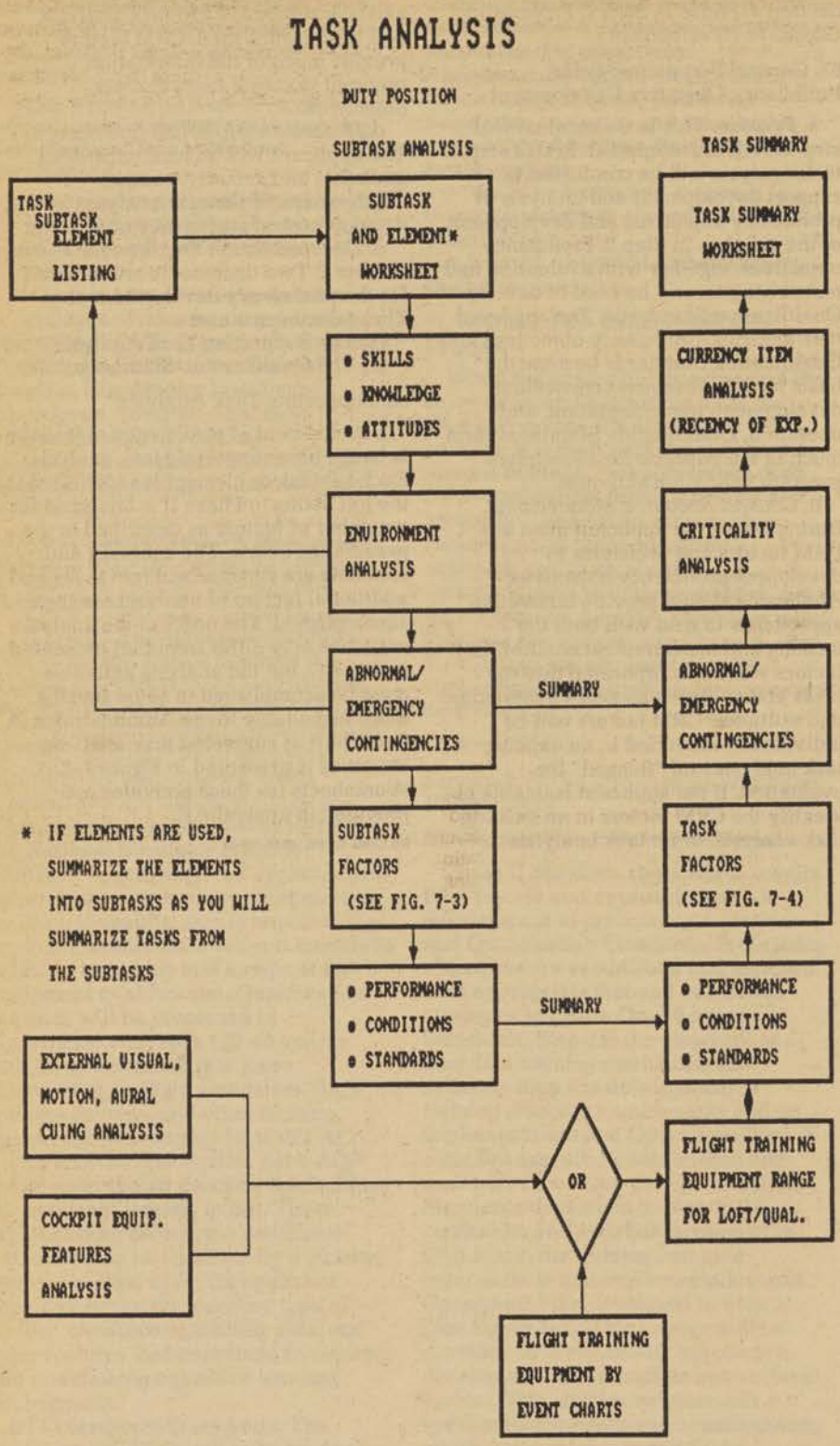

FIG. 7-2

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a. *Skill, Knowledge, and Attitude Listing.* The applicant analyzes each subtask or element for required knowledge, skills, and attitudes. This analysis includes the CRM factors. Skills are classified as either motor or cognitive. An example of a subtask or elements skills, knowledge, and attitudes listing, with representative CRM factors, follows.

(Note: This example is not intended to be complete. Rather, it shows three examples of each category: knowledge, motor skill, cognitive skill and attitude.)

EXAMPLE

Subtask: Perform Procedure Turn
Knowledge—Know when to execute a procedure turn.
Knowledge—Know what types of procedure turns apply.
Knowledge—Know procedures for the applicable procedure turn.
Cognitive Skill—Decide on the appropriate type of procedure turn.[1]
Cognitive Skill—Determine drift from course and heading comparisons.
Cognitive Skill—Determine inbound intercept angle/heading.
Motor Skill—Turn to and maintain outbound heading; maintain altitude.
Motor Skill—Turn inbound, maintain _____ deg. bank.
Motor Skill—Accomplish verbal communication as required.[1]
Motor Skill—Maintain holding airspeed.
Attitude—Be aware of primary systems operations.[1]
Attitude—Be aware of other aircraft.[1]
Attitude—Be aware of air traffic control radio communications.[1]

[1] CRM factors.

(Note: Subtask summaries are accomplished where elements are used.)

b. *Environment Analysis.* Each subtask is analyzed for environment considerations. The following environmental factors apply:

(1) The natural environment; e.g., ceiling, visibility, wind, turbulence, wet runway, etc.

(2) The operational environment and terminal areas including enroute where flight activities are conducted; e.g., navigation, out of service, etc.

(3) The operational configuration of the aircraft; e.g., center of gravity, weight, minimum equipment list, etc.

(Note: Where environmental conditions increase difficulty of an element or a subtask, or otherwise change the performance significantly, a separate element or subtask is to be generated.)

c. *Abnormal Emergency Contingencies.* For each element or subtask, the applicant should identify any equipment abnormality or emergency which increases difficulty or affects performance of the subtask; e.g., engine failure, partial flight controls, hydraulic system/s failure, high or low operating weights.

Note: 1: Equipment abnormalities or emergencies may be appended to each subtask and/or separate subtasks may be created. 2: Environmental conditions and abnormal and emergency contingencies are used to create Line Operational Simulation scenarios for qualification and continuing qualification curriculums.

d. *Subtask Factors Analysis.* For this activity, the applicant collects data for a variety of factors. Figure 7–3 shows these factors and their purposes. The "references" factor and the "success criterion" factor are used in lesson development. The references factor is necessary for maintaining current curriculums ("curriculum currency maintenance"). The success criterion factor may be needed if subtask performance standards are new or different from contemporary performance standards. Success criterion is that data which define the limits of safe operation. For example, procedure turn safe operating envelopes may be found in TERPS documentation. Contemporary performance standards for subtasks may be found in materials such as FAA pilot test standards, ACs, etc The other factors (relative consequence of error, relative difficulty, time to accomplish, and trails required to reach proficiency) are optional for use in lession development. For relative rating of factors such as consequence of error or difficulty, a five point scale is recommended with 5 (five) most, 1 (one) least. (for further discussion of these factors, see paragraph g. of this section.)

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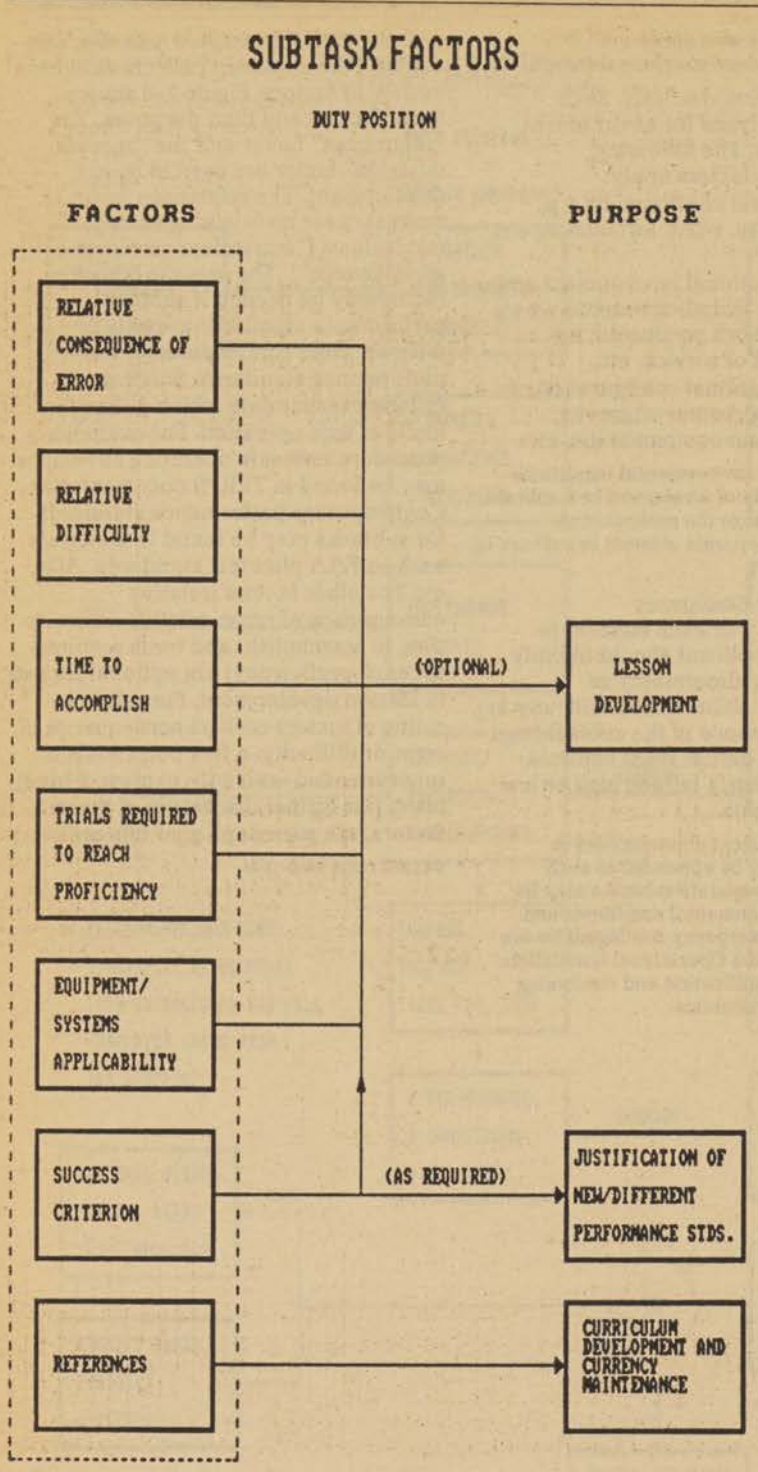

FIG. 7-3

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e. *Subtask Performance, Conditions, Standards.* After the preceding actions are accomplished, the applicant prepares a statement of performance, conditions, and standards for each subtask. (See the worksheet in appendix E as an example.) The performance statement includes consideration for summaries of all the skill, knowledge, and attitudes listed for the subtask. Conditions are taken from the environment analysis and abnormal emergency contingencies. The standards are taken from existing documents such as the FAA pilot test standards or will be established by the applicant. This subtask data (performance, conditions and standards) provides the basis for supporting proficiency objectives.

f. *Task Summary from Subtask Analysis Data.* When the subtask analysis is complete, a task summary is created from portions of the subtask data from all of the applicable subtasks for each task. (See appendix E and Figure 7–2.) The task summary consists of:

(1) A summary of the abnormal/emergency conditions.

(2) Summary statements of performance, conditions and standards from each subtask.

(3) The flight training equipment range selected from appendix C.

(Note: A cueing analysis and cockpit equipment features analysis is necessary to support flight training equipment selections that are outside the range in appendix C or for events (tasks) not covered in appendix C.)

g. *Task Factors Analysis.* For each task summary accomplished through paragraph f. above, an analysis of the factors as shown in Figure 7–4 is completed. Figure 7–4 also shows the purpose for each factor analysis. These purposes are:

(1) Curriculum Currency Maintenance. As with the subtask analysis, listing references (documents defining the operational procedures, conditions, standards, etc.) is necessary to maintain current curriculums.

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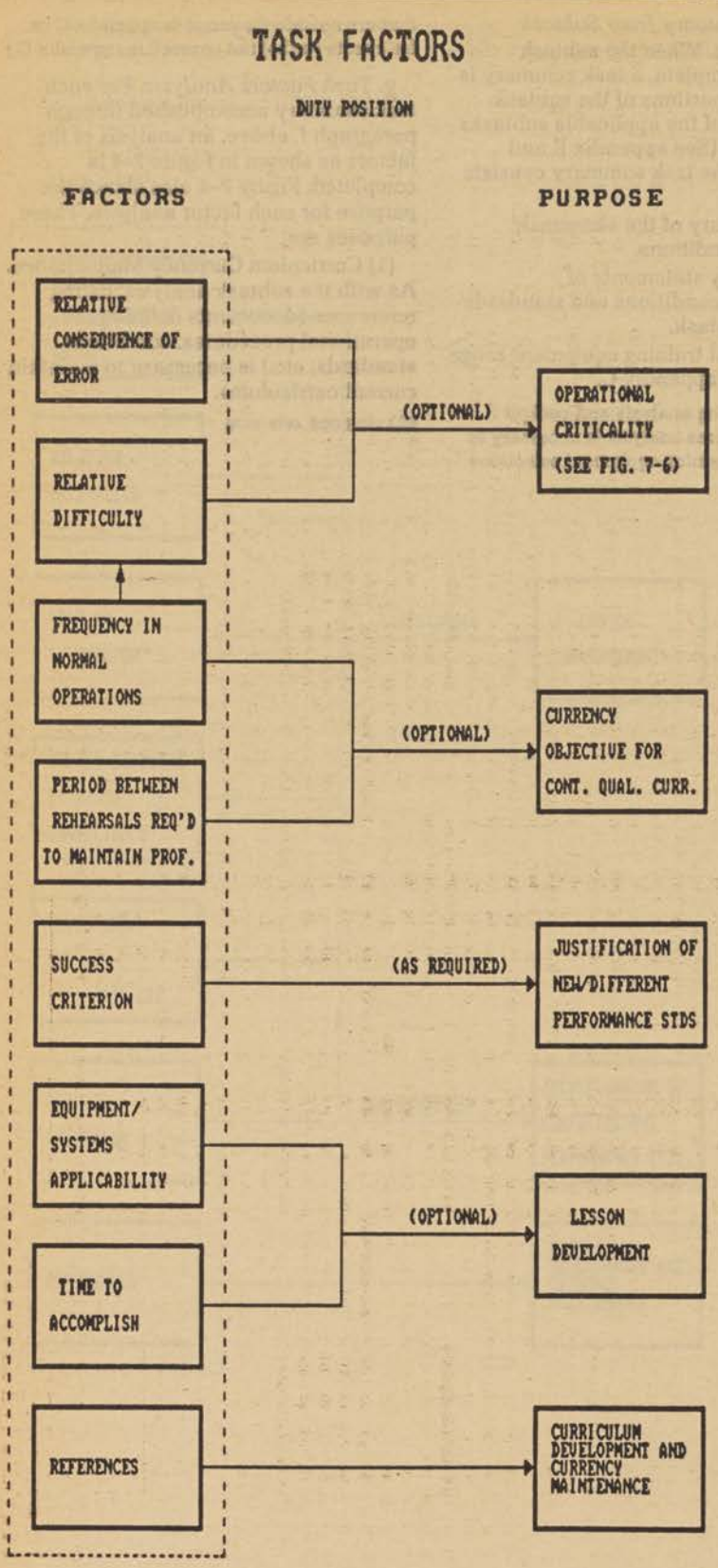

FIG. 7-4

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(2) Lesson Development. Factors of equipment/systems applicability (to the task accomplishment) and time to accomplish the task are suggested to aid the curriculum developers in creating lessons.

(3) Justification for New/Different Performance Standard. The success criterion factor will be included to support performance standards not contained in a contemporary document. Subtask data may be summarized at the task level for this requirement.

(4) Currency Event. Currency event candidates may be identified (for selection later in the process) by collecting data on:

(i) Frequency of task occurrence in normal operations.

(ii) The maximum interval of time that can be allowed between rehearsals of a task without a loss of proficiency.

If the frequency of occurrence in normal operations is more than the maximum interval allowed between rehearsals, a currency event candidate may be identified.

(5) Operational Criticality. Each task provides data to create a terminal proficiency objective. (See section 89a.) If non-critical tasks can be identified, their respective terminal objectives may be accomplished over the continuing qualification cycle. Otherwise, all terminal objectives will be considered critical and therefore will be accomplished during each evaluation period. The two factors used to make the criticality assessment are:

(i) Relative consequence of error (impact on safety if a major error is made).

(ii) Relative difficulty of task to all other tasks.

Figure 7–5 suggests an approach to task criticality assessment acceptable to the Administrator. A five point scale (five most, one least) is used for both factors. For consequence of error, most may be associated with loss of life. Relative difficulty should take into consideration the frequency of occurrence in normal flight operations as well as task complexity, time compression, etc. A relative rating of 4 or greater for either factor denotes a critical task. Also, if both ratings are 3 (totaling 6), the task is critical. All other ratings would be non-critical.

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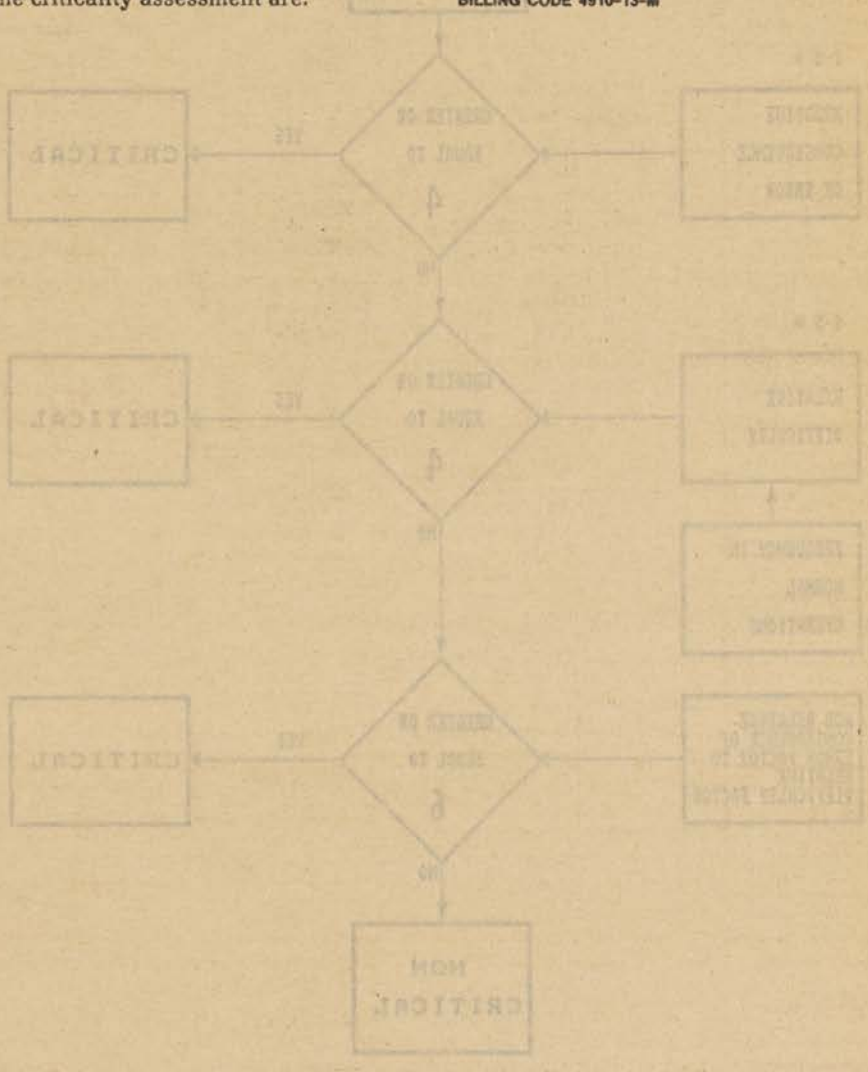

OPERATIONAL CRITICALITY ASSESSMENT

TASK

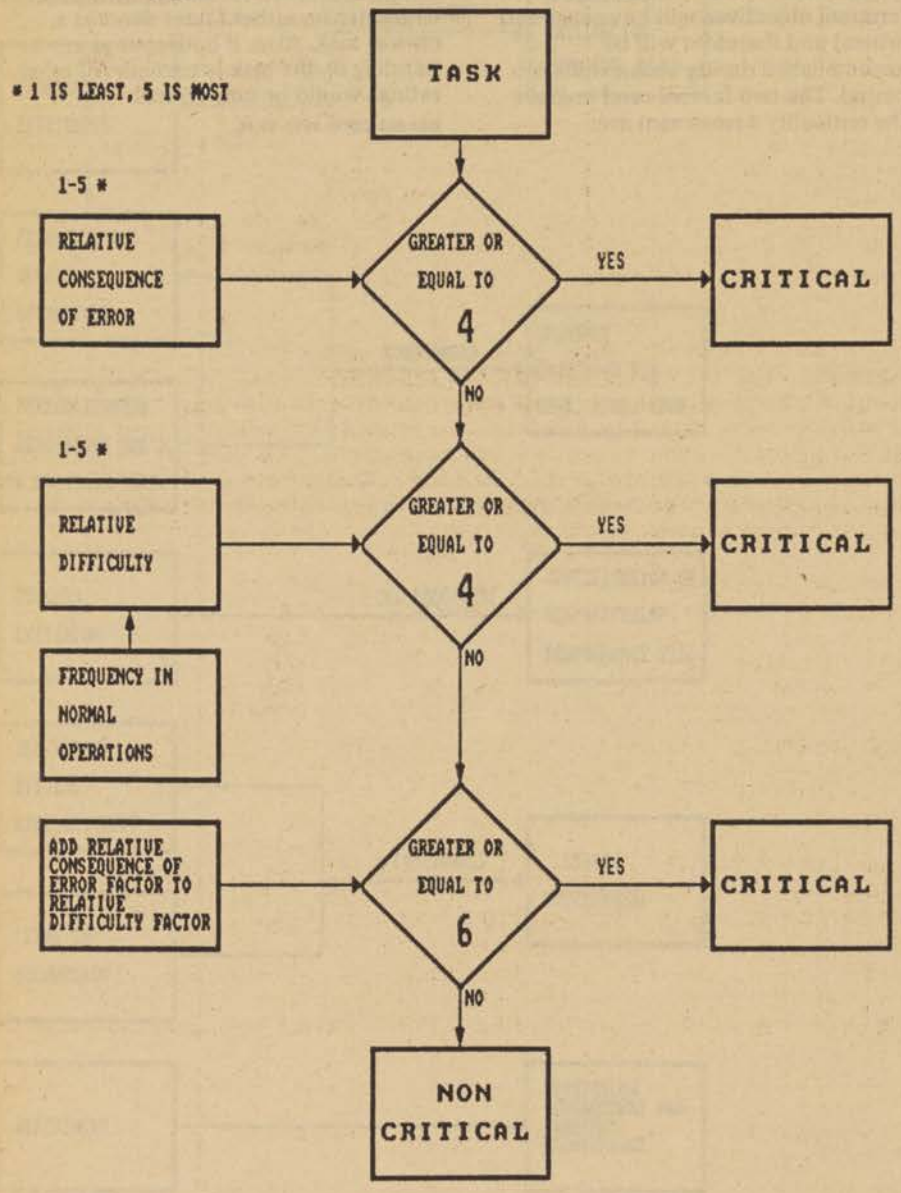

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FIG.7-5

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h. *Completion of Task Summary.* Completion of the task summary analysis provides the body of data required to create terminal proficiency objectives, test and evaluation strategies and curriculums of indoctrination, qualification, and continuing qualification.

89. Proficiency Objectives

For each duty position, proficiency objectives are extracted from the subtask and task analysis. A proficiency objective has three elements: (1) A statement of performance; (2) a statement of pertinent equipment and environment conditions surrounding the performance; and (3) the parameters and tolerances which define standards of satisfactory performance. Terminal proficiency objectives are extracted from the summary task analysis. Supporting proficiency objectives are extracted from the subtask analysis. (See Figure 7–6.)

a. *Terminal Proficiency Objectives.* Terminal proficiency objectives are statements of performance, conditions, and standards established at the task summary level. A complete set of terminal proficiency objectives will fully describe a particular job in the applicant's flight operation. Terminal proficiency objectives may be classified as critical or noncritical on the basis of an operational criticality assessment. Terminal proficiency objectives which are currency event items may be identified from candidate items developed during the subtask analysis or task summary analysis and used in development of continuing qualification curriculums. Statements of terminal proficiency objectives should also include the range of flight training equipment to be used, the abnormal and emergency contingencies to be considered, and lesson development factors.

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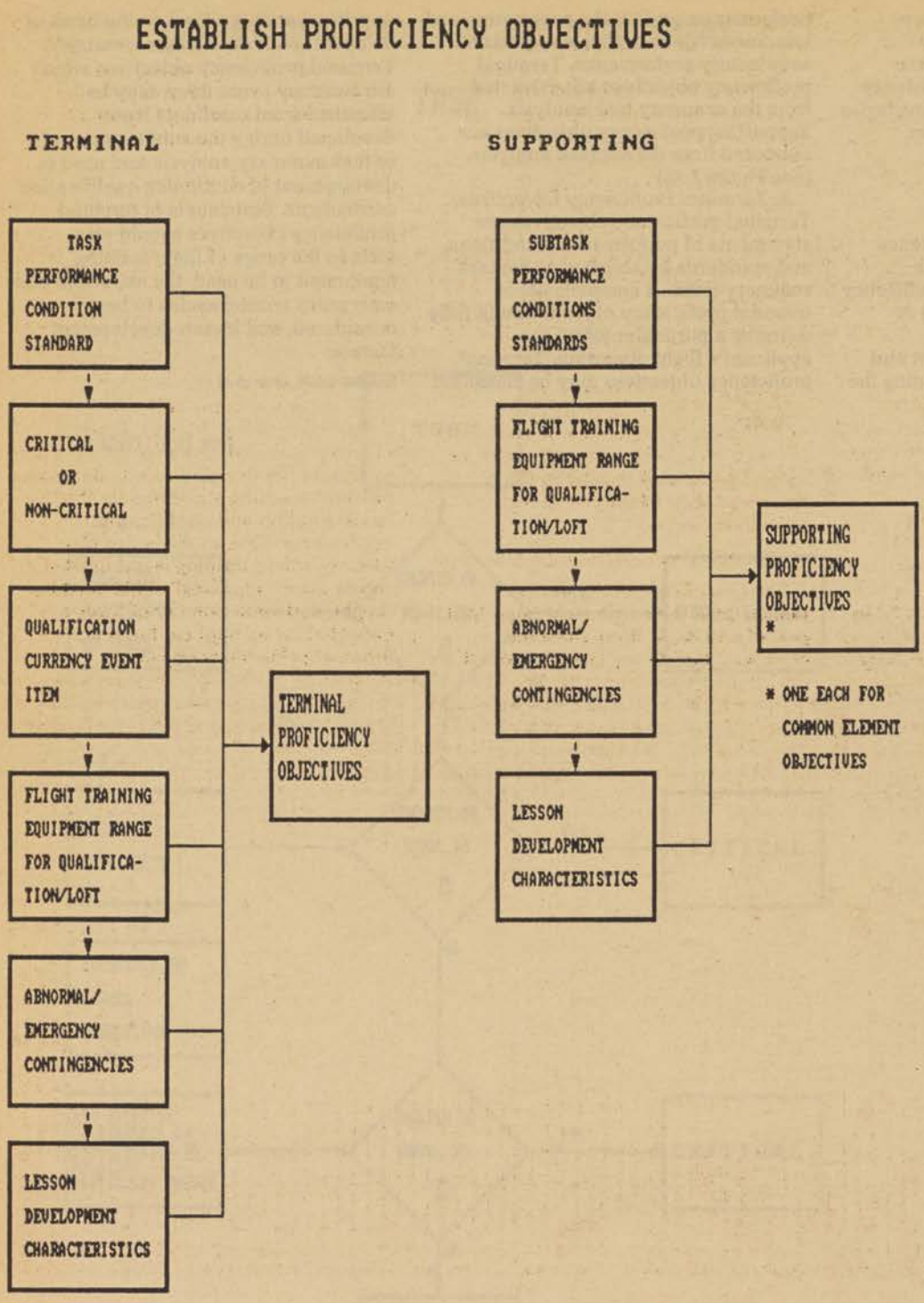

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FIG.7-6

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(Note: A set of multiple conditions may suggest that multiple terminal proficiency objectives are required for each task. In any case, an applicant will create terminal proficiency objectives appropriate to the applicant's operation. Examples of multiple conditions include: high and low gross weight; cold weather and hot weather operation; and forward and aft CGs.)

b. *Supporting Proficiency Objectives.* Supporting proficiency objectives are used to develop training and evaluation curriculum lessons, modules, and segments. A supporting proficiency objective is prepared for each subtask. A supporting proficiency objective includes a statement of performance, conditions, and standards, extracted from the subtask analysis. Supporting proficiency objectives include the range of flight training equipment to be used, the abnormal and emergency contingencies considered, and the lesson development characteristics.

c. *Common Element Supporting Proficiency Objectives.* Identifying common element objectives is useful in creating ground and flight curriculum modules that do not have unnecessary repetition of supporting proficiency objectives. Identical supporting proficiency objectives may appear in several terminal proficiency objectives. These supporting objectives are identified as a common element supporting proficiency objectives.

d. *Enabling Proficiency Objectives.* Enabling proficiency objectives are used to prepare individuals and crews for subsequent training in an operational cockpit environment. An applicant may identify a certain knowledge factor, cognitive skill, motor skill, or attitude as an enabling proficiency objective. These are not normally carried forward in the supporting performance objective statement. However, performance of a supporting proficiency objective would depend on a student acquiring the particular knowledge, skill, or attitude.

e. *Document References.* All references used in defining the performance, conditions and standards for each proficiency objective must be listed by title and chapter in the documentation of the proficiency objectives.

90. Establishing Qualification Standards

The Qualification Standards document is the single most important part of any AQP. It provides the complete proficiency baseline for all duty positions. It lists both terminal and supporting proficiency objectives. This baseline provides the major elements which enable qualification curriculum and continuing qualification curriculum syllabus development in Phase II, Step 2. The document also provides the basis for validation of individual and crew performance. Figure 7–7 depicts the process for establishing Qualification Standards. The document is organized as follows:

a. *Student Entry Analysis.* The applicant will accomplish and document a student entry level performance analysis for terminal proficiency objectives and supporting proficiency objectives. A 4-point performance difference rating scale, Figure 7–8, is suggested. Highly skilled instructors who are familiar with the experience and background of the student population and knowledgeable of the terminal and supporting proficiency objectives should make the rating. This analysis provides guidance to determine efficient teaching strategies for the indoctrination and qualification curriculums. This analysis can also identify where training is not needed, where basic "enabling" skills must be taught, and what number of trials are expected for an applicant to reach terminal proficiency objective standards. More than one population group may be used in conducting the student entry analysis for a single duty position.

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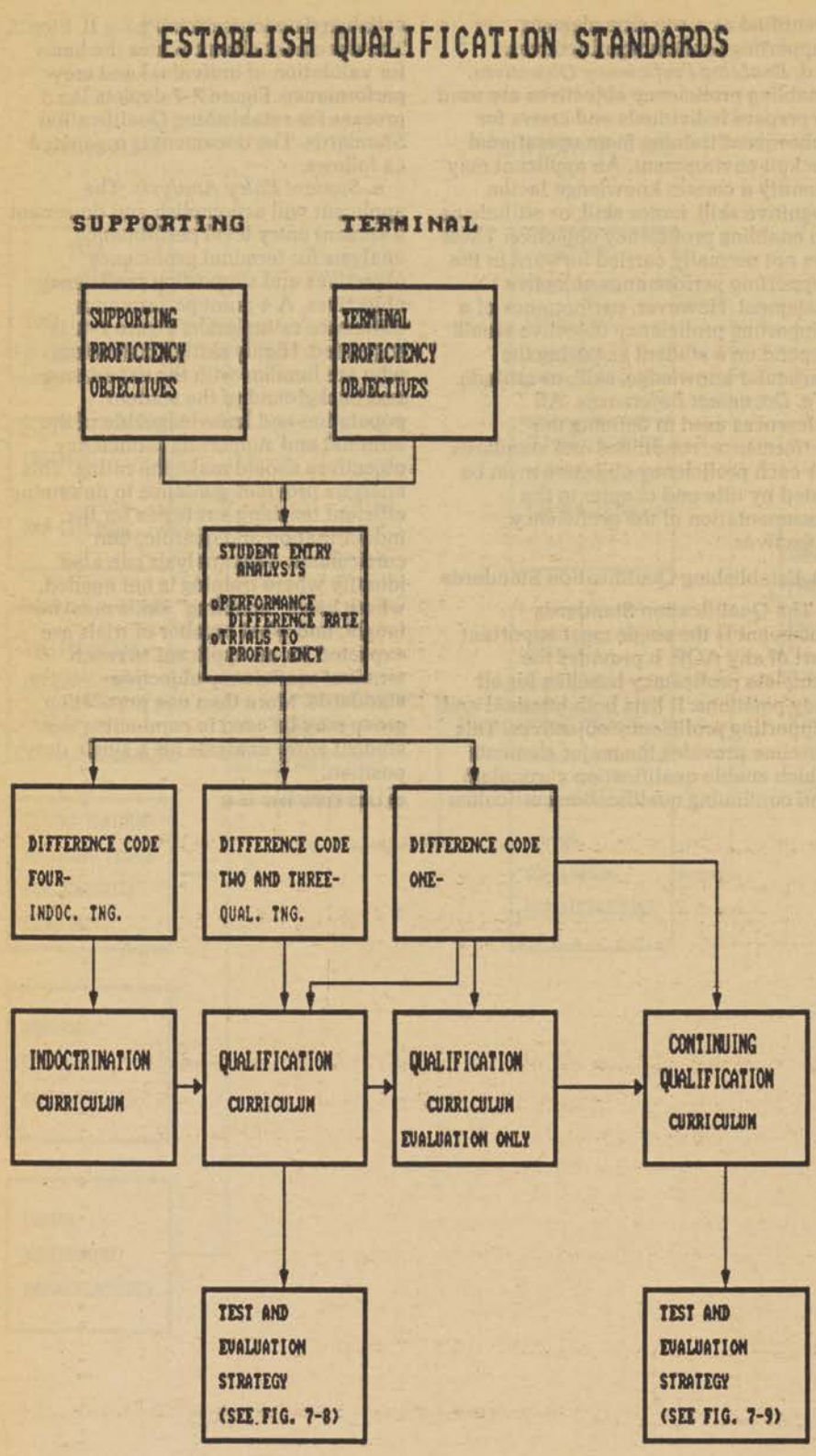

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FIG.7-7

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PERFORMANCE DIFFERENCE RATING SCALE

Performance difference code	Performance difference description
1	Meets or exceeds the required performance.
2	Can accomplish tasks with minor errors or omissions. May take longer than expected or allowed.
3	Cannot accomplish tasks. Does demonstrate basic background skills and knowledge.
4	Does not demonstrate basic background experience, skills or knowledge. Unfamiliar with simplest elements of a task.

Fig. 7–8

b. *Allocation of Proficiency Objectives.* The Qualification Standards document will identify the curriculum (indoctrination, qualification, or continuing qualification) in which specific proficiency objectives will be met. The applicant will consider student entry level in determining this allocation. All terminal proficiency objectives must be included in a qualification curriculum regardless of entry level analysis. For supporting proficiency objectives the entry level analysis determines what objectives will be taught under each curriculum. Supporting proficiency objectives with a performance difference code of 4 should be included in an indoctrination curriculum and again, along with objectives with a performance difference code of 3 and 2, in a qualification curriculum. A difference code of 1 would not require indoctrination or qualification training but would indicate that the candidate is ready for proficiency maintenance provided for in the continuing qualification curriculum. All objectives should also be covered in continuing qualification test and evaluation strategies.

c. *Developing a Test and Evaluation Strategy.* (1) *General.* [As used here, "test" means the process of gathering, formatting and reporting discrete individual and crew proficiency data. "Evaluation" means the process of analyzing that data by comparison with sets of specific criteria.] The applicant will develop a test and evaluation strategy for indoctrination, qualification (Figure 7–9), and continuing qualification (Figure 7–10) curriculum proficiency objectives. Each strategy must describe how, when, where, and by whom the data is gathered and the evaluation is conducted. The analysis may be used for, but is not limited to, the following purposes:

(i) Validating individual and crew proficiency.

(ii) Validating specific performance factors.

(iii) Projecting proficiency trends, etc.

(2) *The Process.* An applicant will develop a test and evaluation strategy as follows:

(i) For qualification curriculums divide terminal proficiency objectives into critical and non-critical sets.

(ii) For continuing qualification curriculums select from terminal proficiency objectives those that are currency events and divide objectives that are not currency events into critical and non-critical sets. Critical events will be evaluated in each evaluation period; non-critical events will be evaluated in each continuing qualification cycle.

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TEST AND EVALUATION STRATEGY

QUALIFICATION CURRICULUM

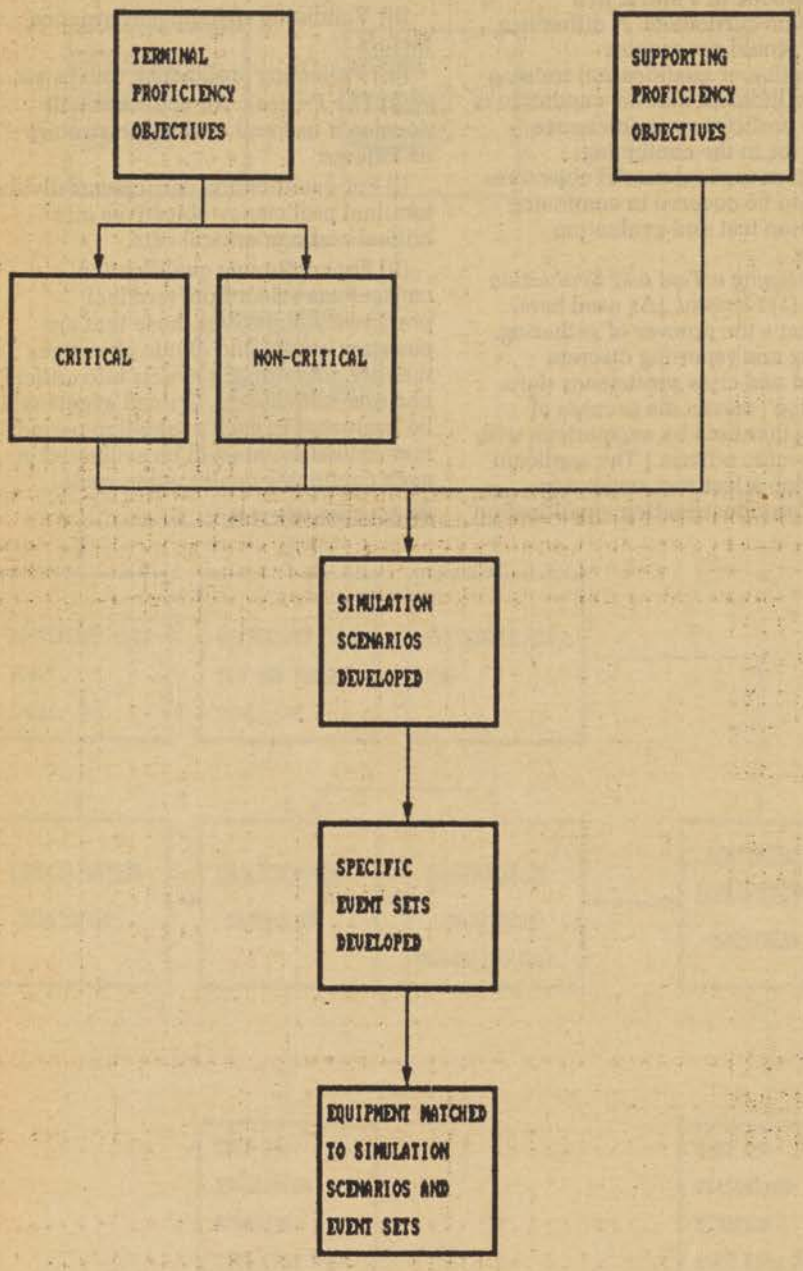

FIG.7-9

TEST AND EVALUATION STRATEGY

CONTINUING QUALIFICATION CURRICULUM

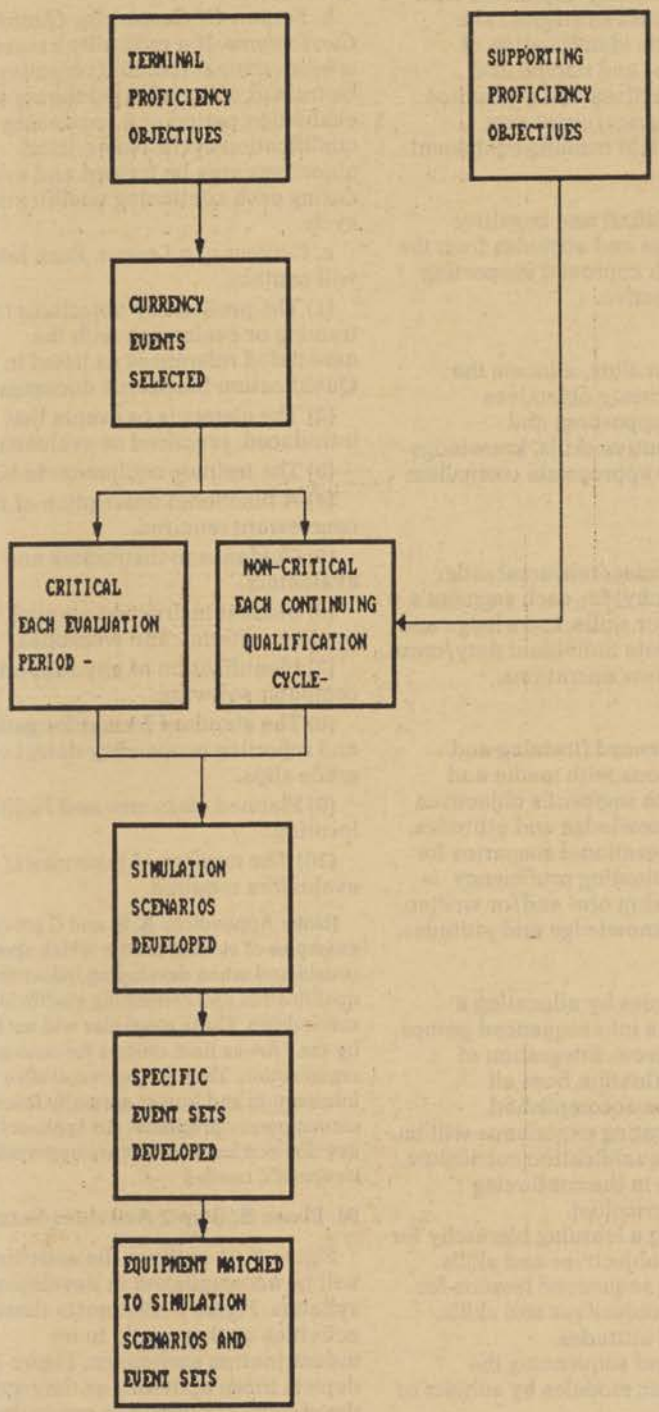

FIG.7-10

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(iii) For continuing qualification divide currency events into critical and non-critical. Critical will be validated by test and evaluation in the initial evaluation period; non-critical currency events are validated by test and evaluation in the initial continuing qualification cycle in each continuing qualification cycle.

(iv) For both qualification and continuing qualification curriculums develop Line Operational Simulation scenarios that integrate proficiency objectives (terminal and supporting) for all duty positions by task.

(v) For both qualification and continuing qualification curriculums develop specific event sets that integrate supporting proficiency objectives and terminal proficiency objectives not otherwise contained in simulation scenarios.

(vi) For both qualification and continuing qualification curriculums allocate scenarios and events to flight training equipment.

(Note: The applicant should provide a separate supporting rationale when deviation from the tables in appendix C is proposed.)

91. Approval of Phase II, Step 1 Documentation

Once the FAA has approved the supporting task analysis and Qualification Standards, the applicant may proceed with Phase II, Step 2.

Section 5. Phase II, Step 2: Syllabus Development

92. General: Syllabus Development

A syllabus is the learning order sequence of curriculum segments, modules, lessons, and lesson elements. It includes identification of the planned hours, media, methods, and scenarios to be used. A syllabus for each curriculum is developed by using the Qualification Standards approved in Phase II, Step 1.

The purpose of Step 2 is to provide a syllabus for each of the three curriculums by duty position and make, model, and series aircraft (or variant). The syllabus development process as shown in Fig. 7–11 includes:

a. Extracting procedural and cognitive skills, knowledge and attitudes from the subtask for each approved supporting proficiency objective.

b. Allocating proficiency objectives (terminal and supporting) and procedural/cognitive skills, knowledge, and attitudes to one or more of the curriculum segments.

Syllabus Development

General

Start With

Qualification standards each curriculum: Consists of terminal and supporting proficiency objectives with test and evaluation strategies. The strategies include identification of currency, critical and non-critical proficiency objectives and evaluation simulation scenarios/event sets matched with flight training equipment.

Activity 1

Extract procedural and cognitive skills, knowledge and attitudes from the subtask for each approved supporting proficiency objective.

Activity 2

For each curriculum, allocate the approved proficiency objectives (terminal and supporting) and procedural/cognitive skills, knowledge and attitudes to appropriate curriculum segments.

Activity 3

Establish learning/rehearsal order (learning hierarchy) for each segment's objectives and/or skills, knowledge and attitudes. Integrate individual duty/crew positions into crew operations.

Activity 4

Develop sequenced (training and evaluation) lessons with media and methods for each segment's objectives and/or skills, knowledge and attitudes, optimize line operational scenarios for training and evaluating proficiency objectives. Develop oral and/or written tests for skills, knowledge and attitudes.

Activity 5

Develop modules by allocating a lesson or lessons into sequenced groups of common subjects. Integration of training and evaluation from all segments may be accomplished. Supervised operating experience will be included in the qualification curriculum, currency events in the continuing qualification curriculum.

c. Establishing a learning hierarchy for each segment's objectives and skills.

d. Developing sequenced lessons for each segment's objectives and skills, knowledge, and attitudes.

e. Grouping and sequencing the lessons into basic modules by subject or purpose.

93. Basic Curriculum Requirements

a. *General Format of Curriculums.* Each curriculum is based on terminal, supporting, and enabling objectives. Each curriculum is organized into individual lessons presented in a meaningful sequence with evaluation milestones. The sequence is assembled into training and evaluation modules. Modules are grouped into segments of training, evaluation, and supervised operating experience.

b. *Format Of Continuing Qualification Curriculums.* If a criticality assessment is used, critical terminal objectives must be trained and evaluated during each evaluation period of a continuing qualification cycle. Non-critical objectives may be trained and evaluated during each continuing qualification cycle.

c. *Content of a Lesson.* Each lesson will contain:

(1) The proficiency objectives for training or evaluation with the associated references as listed in the Qualification Standards document.

(2) The elements or events that will be introduced, practiced or evaluated.

(3) The training equipment to be used.

(4) A functional description of the courseware required.

(5) Guidance to instructors and evaluators.

(6) Student instruction manual, reading material, and workbook.

(7) Identification of any supporting computer software.

(8) The standard format for gathering and reporting proficiency data; i.e., grade slips.

(9) Planned class size and facility location.

(10) The number of instructors/evaluators required.

(Note: Appendices A, B, and C provide examples of subject matter which should be considered when developing indoctrination, qualification and continuing qualification curriculums. These examples will not be used by the FAA as final criteria for content or organization. They are representative of information and format normally found in contemporary programs. An applicant should develop curriculums that are appropriate to its specific needs.)

94. Phase II, Step 2 Activities Summary

Figure 7–11 outlines the activities that will be accomplished in developing a syllabus. Figure 7–12 depicts those activities as they apply to an indoctrination curriculum; Figure 7–13 depicts those activities as they apply to developing qualification curriculums; Figure 7–14 depicts those activities as they apply to developing continuing qualification curriculums. On the basis of these activities, the applicant prepares the documents described below.

95. Documentation Required for Step 2

Two documents will be submitted to the FAA for approval. The first document is titled *Curriculum Development Methodology;* the second is titled *Advanced Qualification Curriculum.*

a. *Curriculum Development Methodology (for each Make, Model, Series, Variant).* This document includes the following sections:

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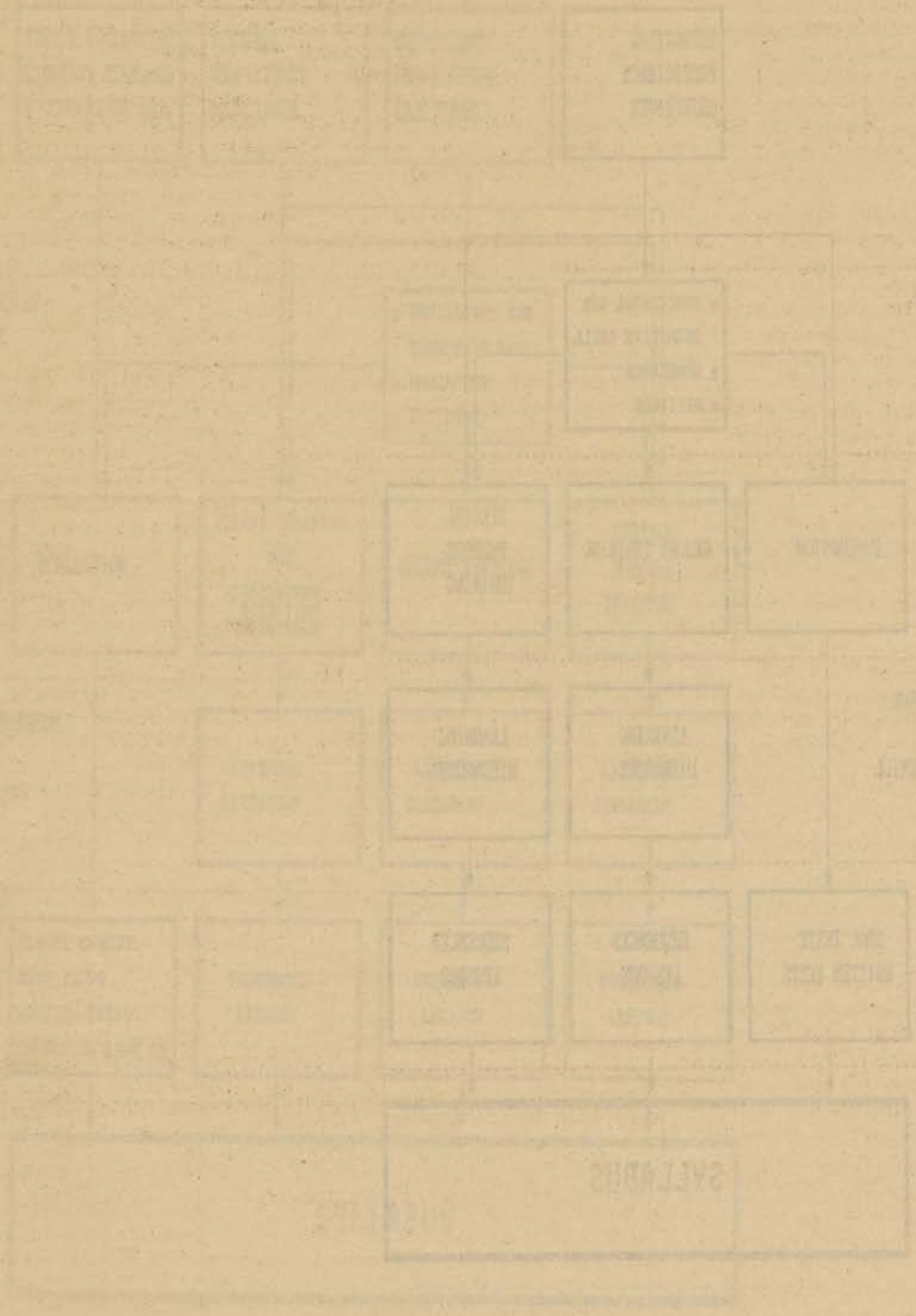


SYLLABUS DEVELOPMENT

INDOCTRINATION CURRICULUM

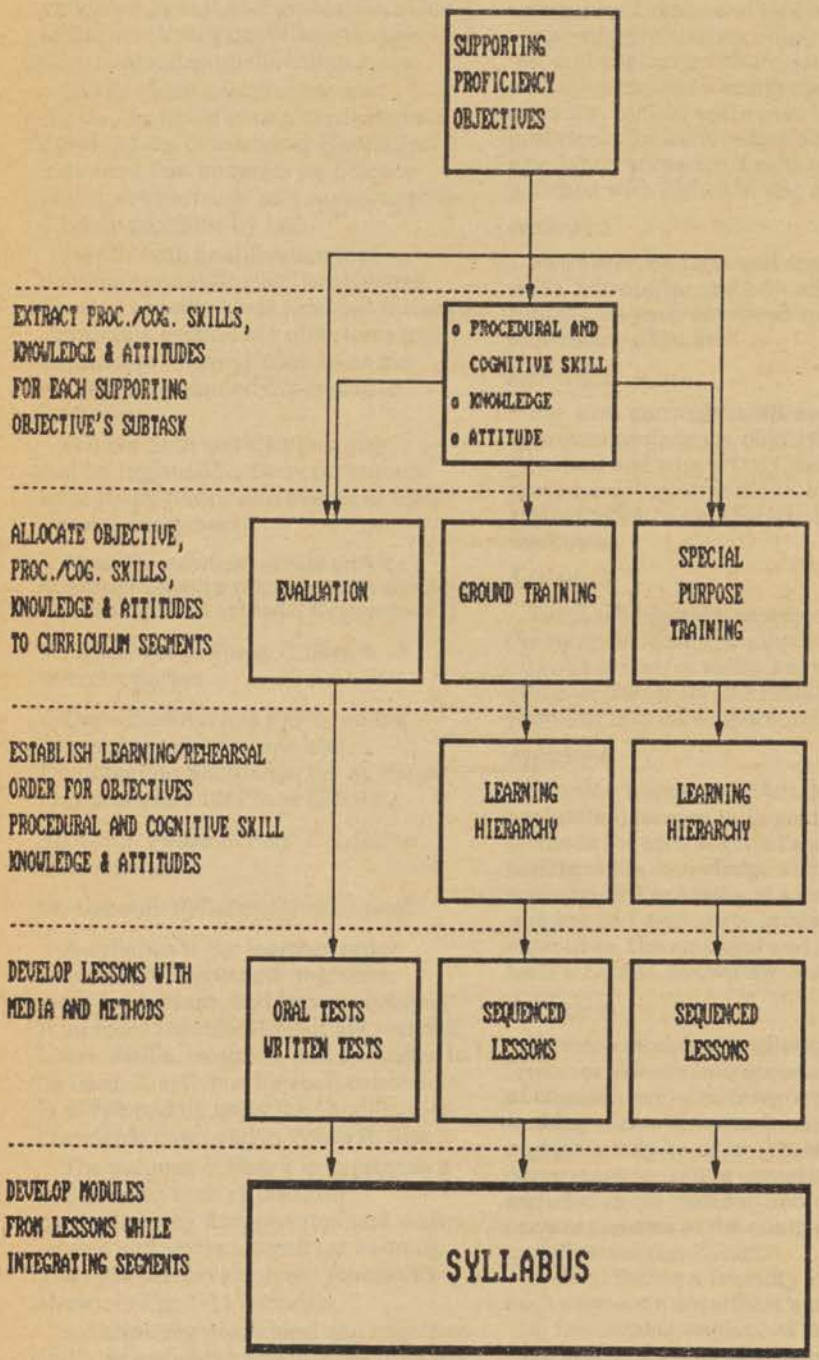


FIG.7-12

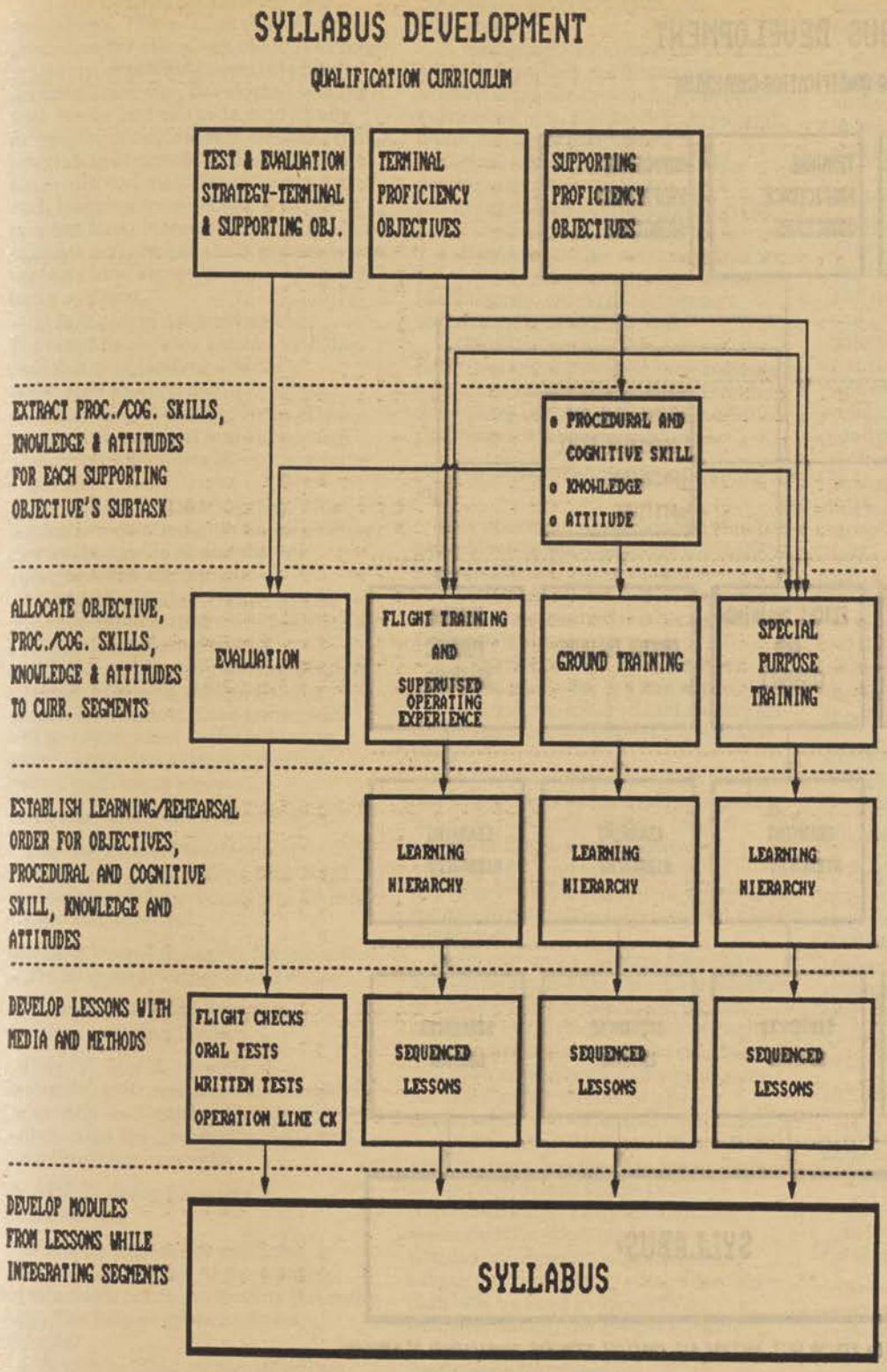
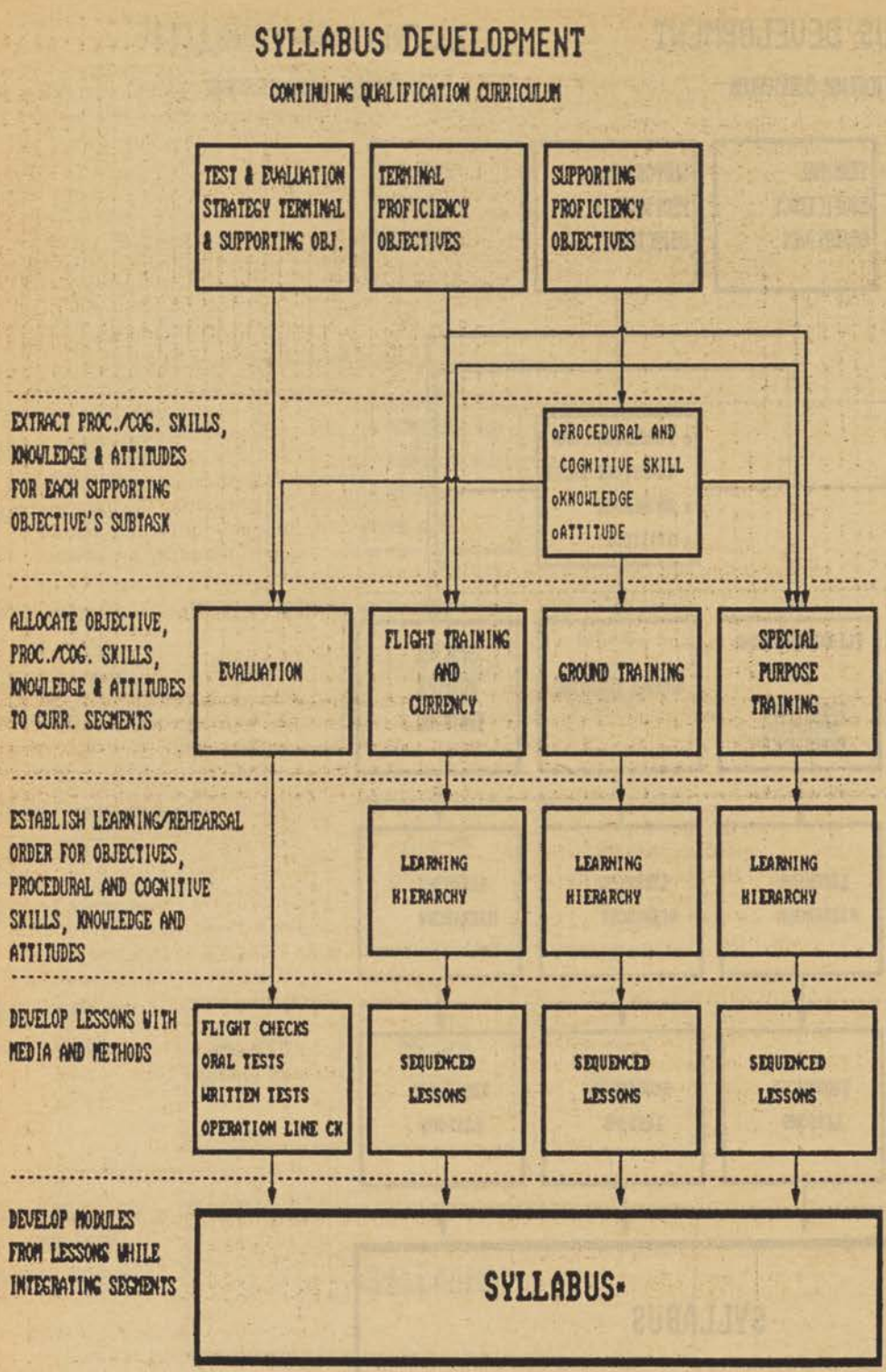

SYLLABUS DEVELOPMENT
QUALIFICATION CURRICULUM
TEST & EVALUATION STRATEGY-TERMINAL & SUPPORTING OBJ.
TERMINAL PROFICIENCY OBJECTIVES
SUPPORTING PROFICIENCY OBJECTIVES
EXTRACT PROC./COG. SKILLS, KNOWLEDGE & ATTITUDES FOR EACH SUPPORTING OBJECTIVE'S SUBTASK
o PROCEDURAL AND COGNITIVE SKILL
o KNOWLEDGE
o ATTITUDE
ALLOCATE OBJECTIVE, PROC./COG. SKILLS, KNOWLEDGE & ATTITUDES TO CURR. SEGMENTS
EVALUATION
FLIGHT TRAINING AND SUPERVISED OPERATING EXPERIENCE
GROUND TRAINING
SPECIAL PURPOSE TRAINING
ESTABLISH LEARNING/REHEARSAL ORDER FOR OBJECTIVES, PROCEDURAL AND COGNITIVE SKILL, KNOWLEDGE AND ATTITUDES
LEARNING HIERARCHY
LEARNING HIERARCHY
LEARNING HIERARCHY
DEVELOP LESSONS WITH MEDIA AND METHODS
FLIGHT CHECKS
ORAL TESTS
WRITTEN TESTS
OPERATION LINE CK
SEQUENCED LESSONS
SEQUENCED LESSONS
SEQUENCED LESSONS
DEVELOP MODULES FROM LESSONS WHILE INTEGRATING SEGMENTS
SYLLABUS

FIG.7-13



* EACH EVALUATION PERIOD WILL INCLUDE ALL CRITICAL TERMINAL PROFICIENCY OBJECTIVES AND AN ONLINE CHECK (INITIALLY NOT LONGER THAN 13 HOS.) EACH CONTINUING QUAL. CYCLE WILL INCLUDE ALL CURRENCY ITEMS, AND ALL NON-CRITICAL, SUPPORTING AND SPECIAL PROFICIENCY OBJECTIVE ITEMS (INITIALLY NOT LONGER THAN 26 HOS.)

FIG.7-14

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(1) The Curriculum Development Procedures. This section describes the procedure for allocating objectives into segments, organizing segments into a learning hierarchy, developing lessons with media and methods, and finally developing modules from lessons while integrating segments. It describes how the media and methods to be used in each lesson were selected. It explains on what basis lessons were grouped into modules and modules into segments and explains how segments were integrated into a syllabus.

(2) Proficiency Objectives and Training Media. This section lists the proficiency objectives and their associated training media/method.

(3) Learning Order Sequence. This section lists terminal and supporting proficiency objectives in learning order sequence.

(4) Curriculum Test Strategy. This section is a detailed plan for describing how evaluation is accomplished throughout the curriculum.

b. *AQP Curriculum.* There will be three curriculums (indoctrination, initial qualification, and continuing qualification) for every duty position in a specific make, model, and series aircraft (or variant). Each curriculum will be constructed in the following order: curriculum segment, module, lesson, and lesson element.

96. Review and Approval of Step 2.

The Curriculum Development Methodology document and the AQP curriculum will be submitted to FAA for review and approval.

Section 6. Phase II, Step 3: Development of Training Requirements and Plans

97. General: Training Resource Requirements and Plans

Phase II, Step 3, consists of determining the resource requirements for an AQP curriculum. The applicant will develop the documents described in the following paragraphs.

98. AQP Training Resource Requirements

In this document, the applicant presents the analysis of the training requirements for implementing the entire AQP. The following sections are included:

a. *Facilities.* This section describes the required facilities.

b. *Curriculum Courseware.* This section describes all the courseware required to implement the AQP curriculum; e.g., for instructors and students—manuals, handbooks, workbooks, tests, grade sheets, software required to support simulation scenarios.

c. *Instructor Requirements.* This section describes the instructor requirements for conducting the AQP curriculum; e.g., the number, type, and qualification of instructors.

d. *Evaluator Requirements.* This section describes evaluator requirements for conducting the AQP curriculum; e.g., number, etc.

e. *Equipment.* This section describes equipment requirements; e.g., projectors, blackboards, mockups, computers, simulators, training devices.

f. *Quality Control.* This section describes quality control requirements; e.g., plans for assuring and maintaining the quality of the program data and performance measurement data.

99. AQP Implementation and Operations Plan

This document describes the plan for implementing and operating the AQP. It includes the following sections:

a. *Curriculum Schedule.* This section includes proposed schedules for the AQP curriculums.

b. *Transition Plan.* The transition plan, provided with the application in Phase I, will be updated and made part of the Implementation and Operations Plan.

c. *Equipment Test Plan.* This section describes the plan for developing the baseline performance data for and testing of the required hardware, software, and other equipment. It includes the ATG (Approval Test Guide) for any flight training devices and flight simulators.

d. *Formative Evaluation Plan.* This section describes the plan for evaluation of facilities, courseware, equipment, students, instructors, evaluators, and performance measurement techniques. The plan normally includes provisions for small group tryouts of all new courseware, software, and equipment.

e. *Summative Evaluation Plan.* This section describes the plan for evaluation of the AQP during Phase IV, Implementation. The plan specifies methods for evaluating training, terminal proficiency objectives and supporting proficiency objectives. The plan will be used in Phase IV to evaluate data in the Program Audit Database and in the Performance/ Proficiency Database.

f. *AQP Maintenance Plan.* This section describes the plan for maintaining control of the AQP approval documents, maintaining curriculum currency, upgrading equipment, monitoring and responding to demographic changes, and for using training/evaluation feedback to maintain and improve the AQP.

g. *Automated Data Processing Equipment Plan.* This section identifies automation equipment that will be used in an AQP and describes how that equipment will be used.

h. *Performance/Proficiency Data Collection Procedures.* This section describes the manual and automated data collection procedures to be used during implementation and operation. The data will be collected on individual and crew performance/ proficiency objectives. If automated performance measurement is to be used, this section will describe the associated data collection, storage, analysis, quality control and security procedures. The section also describes the applicant's procedures for presenting the data to the FAA. See Chapter 9 for further details on collecting performance/ proficiency data.

100. Approval Process for Phase II, Step 3

The training resources requirements document and the Implementation and Operations Plan are both presented to the FAA for approval.

Section 7. Phase III: Training System Implementation and Courseware Development and Implementation

101. General: Phase III

To this point, the applicant has curriculums and plans which have FAA approval. In Phase III, to implement the AQP, the applicant will acquire and test (called "formative evaluation") the resources required to support the curriculums. These activities include qualification of instructors and evaluators.

102. Phase III Activities

During this phase the applicant will accomplish the following:

a. Develop and implement courseware and testing materials.

b. Implement the FAA-approved Formative Evaluation Plan.

(Note: This evaluation will consist of small group tryouts of each lesson using actual students and instructors/evaluators.)

c. Train, evaluate, and qualify instructors and evaluators. (See chapter 5 of this AC.)

d. Review and, if necessary, modify both the Summative Evaluation Plan and the AQP Maintenance Plan using the information gained in implementation of the Formative Evaluation Plan.

103. No Jeopardy Evaluation

Formative evaluation will normally involve no jeopardy or credit for students, since its primary purpose is to determine lesson suitability and effectiveness. The applicant may choose, however, to give student credit for part or all training and qualification achieved in the formative evaluation. The decision to give credit must be approved by the FAA before conducting the formative evaluation and must be documented in the Implementation and Operations Plan.

104. Documentation for Phase III

Documentation includes the results of formative evaluation, summative evaluation (of instructors and evaluators), AQP maintenance, and equipment testing. These results will be included in the Implementation and Operations Plan Results document in the following sections.

a. *Courseware and Testing Document Catalogue.* This section is a list of all applicable training and testing documents.

b. *Formative Evaluation of Courseware/Curriculum.* This section describes results of the formative evaluation of facilities, courseware, equipment, instructors, evaluators, and performance measurement techniques. It also presents training operations results (e.g.; student test results, performance/proficiency data for instructors and evaluators) and includes recommendations for curriculum revisions.

c. *Summative Evaluation.* This section describes the results of the summative evaluation of the AQP curriculums for instructors and evaluators.

d. *Maintenance Evaluation.* Any findings from the formative evaluation of the courseware and curriculums that necessitate change will be implemented in accordance with the applicant's approved AQP Maintenance Plan. The results of evaluating the effectiveness of the AQP Maintenance Plan will be described in this section.

e. *Equipment Test.* This section reports results of the functional tests for required hardware, software, and equipment, and contains actual test data.

105. Initial Approval

The FAA will complete a review of the Implementation and Operations Plan Results, sample the formative evaluation of lessons, and conduct other evaluations of AQP components. If the applicant's formative evaluation is satisfactory, and the FAA determines the curriculum is effective, an initial approval of the AQP will be granted. A satisfactory completion of Phase III indicates to the FAA that the applicant is properly and adequately equipped to execute the AQP. If formative evaluation reveals a need for any change in the curriculum, the change will be made using the AQP curriculum configuration control procedures in the Implementation and Operations Plan. These changes will be complete and documented before the FAA will grant initial approval.

106. Provisional Approval for Training Centers

Approval for a training center AQP will be "provisional" unless the AQP is developed for a specific part 121 or 135 certificate holder's operation. (See definition of "provisional approval.") Provisionally approved AQPs must be tailored for a specific part 121 or 135 certificate holder's operation before the AQP may be used by the certificate holder. Tailoring will include making appropriate changes to Phase I, II, and III documents.

(Note: Training centers that elect to proceed with AQP development without a part 121 or 135 certificate holder partner will do so at their own risk.)

Section 8. Phase IV: Initial Operations

107. General

In this phase the applicant implements the first full training cycle of all AQP curriculums. This full cycle will include complete exercise of indoctrination, qualification, and continuing qualification curriculums.

108. Phase IV Activities

During Phase IV, the applicant and the FAA will accomplish the following:

a. The applicant will implement and operate the full AQP training and evaluation cycle and the AQP Maintenance Plan.

b. The applicant will implement and complete the summative evaluation including collecting Program Audit Data, and individual Performance/Proficiency Data, analyses and reports. Collected data will be used by:

(1) The applicant for its internal quality control program to maintain curriculum and courseware concurrency, suitability, and adequacy.

(2) The FAA to analyze and validate individual instructor, evaluator and student performance.

(3) The FAA to analyze and validate program development, implementation and maintenance procedures.

(4) The applicant and the FAA to support analysis for special subjects such as CRM performance factors.

c. The applicant will continue to conduct functional test for required hardware, software, equipment, and coded test data for updating the equipment test results from Phase III.

109. Required Documentation

Evaluation results of Phase IV will be submitted as an update to the summative evaluation, maintenance evaluation, and equipment test results of the Implementation and Operations Plan Results document that was submitted originally in Phase III.

a. *Summative Evaluation Results.* This update describes the results of the summative evaluation of the AQP and of student, instructor, and evaluator performance. It also describes the results of evaluating methods, media, scenarios and performance measurement used in the AQP. The results of a student feedback instrument (i.e.; surveys, questionnaires) will be reported in this document.

b. *AQP Maintenance Evaluation.* This update describes the results obtained by the methods used for maintaining curriculum currency, upgrading equipment, monitoring and responding to demographic changes, and for using training and evaluation feedback to maintain and improve the AQP.

c. *Equipment Tests Results.* This updates results of the functional tests for required hardware, software, and equipment, and contains actual test data.

110. Approval Process

After the applicant completes at least one indoctrination and qualification curriculum and one full continuing qualification cycle of the continuing qualification curriculum, the FAA will complete an initial operations evaluation of the AQP. This will include an FAA review of the results of summative evaluation, maintenance evaluation, and equipment tests, and analyses of all student performance data. Review of the applicant's AQP maintenance, summative evaluation, and data collection processes will be critical elements of the FAA's Phase IV, initial operations evaluation. The FAA will recommend changes to the curriculum as indicated by results of the initial operations evaluation. FAA approval at the conclusion of Phase IV constitutes final AQP approval.

Section 9. Phase V: Continuing Operations

111. General

In this phase, the applicant continues operation of the AQP until approval is withdrawn by the FAA or until the

applicant withdraws or modifies the AQP. This phase requires continuation of the AQP Maintenance Plan as well as continued documentation of the data requirements for all curriculums. Data will continue to be collected and analyzed by the applicant and the FAA for verification of student, instructor, and evaluator proficiency. (See chapter 9 for full discussion of performance/proficiency data.) Data will also be collected and analyzed by the applicant for:

a. Continued validation of the AQP.

b. Identification requirements for curriculum changes.

c. Program maintenance.

112. Quality Assurance

For AQP success, each applicant will pay particular attention to overall program quality assurance. Continued validation of individual and team proficiency, as achieved and maintained by all personnel, is particularly important. Continued validation of overall program completeness, accuracy, and currency, as provided by the Program Audit Database, is also very important. Elements of program control should assure that quality in proficiency is maintained. The applicant's continued commitment to identify and execute required changes is essential to a successful AQP. The FAA will expect any AQP quality assurance program to identify needed changes in curriculum, courseware and equipment, and to make these changes before unwanted trends in reduced proficiency are seen.

113. Required Documentation

After final approval has been granted the AQP Maintenance Plan will be continued and evaluation results will continue to be documented. A Continuing Program Evaluation Results document is needed on a quarterly basis. This document describes evaluation results for curriculum currency, equipment upgrade, as well as response to demographic changes, and to training and evaluation feedback. The training and evaluation feedback will be used to determine the effectiveness of any changes made to the AQP as a result of summative evaluation and AQP Maintenance Plan activities.

114.–123. Reserved

Chapter 8. Approval Process for an Advanced Qualification Program

Section 1. General

124. The Approval Process

The approval process applies to part 121 and part 135 operators and operators of training centers that participate in an AQP. The approval process applies to a request for a new AQP or to revisions to a currently approved AQP. This chapter establishes how the FAA will grant or withdraw approval of all or part of an AQP. Approval is handled by the Air Carrier Training Branch at FAA Headquarters, Washington, DC, except for approval of training for hazardous materials and security, which is handled by the Air Carrier Branch of the Office of Civil Aviation Security.

125. Initiating the Process

The AQP approval process can be initiated in two ways:

(1) An operator can inform the FAA by letter of plans to establish or change an AQP; or

(2) The FAA can inform an operator that revisions to its AQP are required, based on acquired information relative to training techniques, aviation technology, aircraft operational history, or operator performance.

126.–128. Reserved

129. Phased Review

Applicants will develop, implement, and operate their AQP in five sequential phases as explained in chapter 7 of this AC. These five phases are:

I. Initial application.
II. Curriculum development.
III. Training system implementation.
IV. Initial operations.
V. Continuing operations.

The following paragraphs describe how the FAA will work with an applicant to review or analyze material and to provide guidance for phased approvals. The activities and documentation for each phase are described in chapter 7.

Section 2. Phased Approval Procedures

130. Phase I, Initial Application

a. *Applicant.* The applicant submits a written application which consists of the following:

(1) A Program Audit Database Master List.

(2) An Application Cover Letter.

(3) A Transition Plan.

(4) A Supporting Data Package.

b. *FAA Review Team.* The FAA Air Carrier Training Branch will lead the review and analysis of the application. The review and analysis team will include an instructional system design specialist, air carrier operations specialists, and a data management specialist. The team will also include a civil aviation security inspector, an inspector from the national simulator program staff, and the designee of the applicant's principal operations inspector. Full involvement of all members of the review team is expected during the review and evaluation activities.

c. *Review of the Application.* The application will be evaluated:

- Against the data requirements in Chapters 7 and 9 of this AC.
- For the applicant's understanding of AQP concepts.
- For evidence of the applicant's ability to execute the processes of development, implementation, and operation.

d. *Evaluation Report.* An application evaluation report will be completed by the review team and provided to the Manager of the Air Carrier Training Branch. After the Manager, Air Carrier Training Branch, accepts the report, a conference will be held with the applicant. After determining that the applicant's data submittal is satisfactory, the Manager of the Air Carrier Training Branch will approve acceptance of the application. This approval permits the applicant to proceed to Phase II.

131. Phase II. Curriculum Development

This phase is most important and involves the highest level of program development activity. The applicant continues to add to and build upon the Program Audit Database in three steps. Each step ends in an FAA approval. Step 1 is proficiency objective development; Step 2 is syllabus development; and Step 3 is development of training requirements and plans. The FAA review and analysis team from Phase I will be augmented with a member from the Examinations Support Branch of the Aviation National Field Office and a member from an applicable Aircraft Evaluation Group. Maintaining team integrity will be emphasized.

a. *Required Documents.* The applicant will submit the following documents for each duty position and make, model, and series aircraft (or variant):

For Step 1:

(1) Supporting Task Analysis

(2) Qualification Standards

For Step 2:

(1) Curriculum Development Methodology

(2) AQP Curriculum

For Step 3:

(1) AQP Training Resource Requirements

(2) AQP Implementation and Operations Plan

b. *Review and Evaluation.*

(1) For Step 1. The FAA review and analysis team will evaluate the documents and prepare a report, with recommendations, for the Manager, Air

Carrier Training Branch. When the Manager, Air Carrier Training Branch, has completed final negotiations with the applicant and is satisfied that the proficiency objectives are complete and representative of proficiency equal to or better than that provided by traditional programs, he will submit his recommendation to the Director of Flight Standards for review. Upon satisfactory completion of this review, the Manager, Air Carrier Training Branch, will approve the Qualification Standards in writing. This permits the applicant to continue with Step 2, Syllabus Development.

(2) For Step 2. The FAA review and analysis team will evaluate the Step 2 documents and report its findings to the Manager, Air Carrier Training Branch. When the manager approves the report, it will be passed to the applicant's Principal Operations Inspector (POI). The POI will forward the report, with any necessary explanations, to the applicant. When the applicant has taken any required action identified in the report, the Manager, Air Carrier Training Branch, will approve the applicant's Curriculum Development Methodology and, at the recommendation of the POI, approve the applicant's AQP curriculum. This permits the applicant to proceed with Step 3, Training Requirements and Plans.

(Note: If elements of the Program Audit Database are changed, subsequent changes to the approved curriculum will include a Program Audit Database review by the Manager, Air Carrier Training Branch.)

(3) For Step 3. The FAA review and analysis team will review the Training Resources Requirements document and the Implementation and Operations Plan for completeness and to determine the capability of the applicant's resources to support the curriculum. A key item of review will be the data (Program Audit Database and Performance/Proficiency Database) gathering aspects of the applicant's Implementation and Operations Plan. A report (and briefing) will be provided to the Manager, Air Carrier Training Branch. The Manager, Air Carrier Training Branch, will transmit recommendations to the POI for action. The Manager, Air Carrier Training Branch, will ensure that the recommendations are understood and accepted by the applicant before providing written approval of the Training Resource Requirements document and Implementation and Operations Plan. This approval will allow the applicant to proceed to Phase III.

132. Phase III. Implementation

In this phase, the applicant will acquire and conduct formative testing of all training resource requirements in accordance with the Implementation and Operations Plan.

a. *Documentation.* Results of this step will be supplied to the FAA in the form of a single document entitled *Implementation and Operations Plan Results.* This document is an exhibit in the Program Audit Database. In addition, the Performance/Proficiency Database described in chapter 9 will be initiated in this phase using the instructor and evaluator performance exhibits. (Data collection procedures were established in Phase II, Step 3.) The qualification records for instructors and evaluators will be generated and maintained.

b. *FAA Review and Evaluation.* FAA data gathering and analysis during the implementation phase will include surveillance of specific activities and a final review and analysis of the Implementation and Operations Plan Results document.

(1) Surveillance of formative evaluation activities and evaluation of instructors and evaluators will be accomplished by assigned FAA field inspectors who will be taking evaluator training for their own qualification. The POI will ensure inspection of all instructor and evaluator qualification records for completeness and correctness. Surveillance will be augmented with visits from representatives of the Manager, Air Carrier Training Branch. Representatives of the National Simulator Program Manager will participate for flight training device or flight simulator evaluation and qualification.

(2) Proficiency data will be collected by the applicant and submitted to the FAA to be reviewed and analyzed by the Manager, Air Carrier Training Branch. The execution of the applicant's AQP Maintenance Plan (a component of the Implementation and Operations Plan) and the effectiveness of the applicant's supporting quality control system will be reviewed jointly by the Manager, Air Carrier Training Branch, and the POI.

(3) The Implementation and Operations Plan Results document will be reviewed by the FAA review and analysis team. The team will report its findings (with briefing) to the POI and the Manager, Air Carrier Training Branch. The POI and the Manager, Air Carrier Training Branch, will review the applicant's total program when requested to do so by the applicant and when the applicant's program is considered ready for review by the Manager, Air Carrier Training Branch, and by the National Simulator Program Manager. Readiness exists when all elements specified in the training resource requirements are available and fully operational. After a successful review of the total program, the POI and the Manager, Air Carrier Training Branch, will provide initial approval to a part 121 or 135 operator or provisional approval to a training center. Initial approval allows execution of the Implementation and Operations Plan for the AQP through one complete cycle of all curriculums.

(4) A provisional approval allows a training center to engage with a part 121 or 135 operator in tailoring a provisionally approved curriculum to specific operations. When a training center and a certificate holder enter an agreement to jointly conduct an AQP, all application activities through Phase III will be resubmitted. The FAA review team will re-evaluate the entire Phase I, II and III package for completeness, accuracy and appropriateness for the specific certificate holder for which the AQP is being implemented. A successful review will result in a written initial approval to both the training center and the certificate holder from the Manager, Air Carrier Training Branch.

133. Phase IV, Initial Operations

a. *Applicant.* The applicant operates and maintains all AQP equipment and submits updated summative evaluation results, AQP maintenance evaluation results, and equipment test results from data the applicant collects from the first full training cycles.

b. *Review and Evaluation.* The FAA will monitor Phase IV activities with traditional and specialized surveillance, with data collection and analysis of anonymous data and by making a formal review of all results.

(1) Surveillance of the applicant's Phase IV operations will be accomplished by field inspectors who are qualified as evaluators and by other FAA representatives.

(2) The National Simulator Program Staff will evaluate flight training devices and flight simulators.

(3) Representatives of the Manager, Air Carrier Training Branch, will witness training courses for all curriculums.

(4) Civil Aviation Security will witness curriculum elements which have security and hazardous materials objectives.

(5) A joint (FAA and applicant) program review will be held 30 days after the first exercise of an initial qualification curriculum and every 60 days during the first continuing qualification cycle. The purpose of the reviews is to identify, recommend and plan needed changes. Approval of these changes will be by appropriate FAA authority in accordance with the applicant's approved curriculum maintenance procedures.

(6) The Manager, Air Carrier Training Branch, will receive and analyze required anonymous proficiency data monthly. A proficiency validation and projection database will be generated by duty position.

(7) A complete summative evaluation review, jointly accomplished by the FAA review and analysis team and the applicant, should be conducted as soon as possible after the second evaluation period of a newly established continuing qualification curriculum. The applicant is responsible for preparing a summative evaluation results, updated AQP maintenance evaluation results, and updated equipment test results. The purpose of the review is to determine that:

- The proficiency measures (standards) for each duty position are valid and being achieved.
- The Program Audit Database and curriculums are being maintained in accordance with the approved Implementation and Operations Plan.
- Recordkeeping is complete and accurate.

(8) A complete summative evaluation and maintenance evaluation review report will be prepared by the review and analysis team and submitted to the Manager, Air Carrier Training Branch. The report will include any recommended changes to the AQP. The Manager, Air Carrier Training Branch, will forward the report to the POI for review and for presentation to the applicant for action. When the applicant implements the recommended changes, the POI and the Manager, Air Carrier Training Branch, will issue final approval. Final approval permits continued operation of the AQP.

(Note: Eventual transition of CRM evaluation to pass/fail criteria should be anticipated and integrated into initial qualification and continuing qualification curriculums during the first continuing qualification cycle of Phase IV or at the next earliest and appropriate opportunity. Final written approval of a program which does not include pass/fail CRM criteria will include a statement that final approval is contingent on eventual compliance with this condition.)

134. Phase V. Continuing Operations

Phase V is continuing operation of the applicant's AQP under FAA surveillance. The AQP Maintenance Plan will be continued and reviewed. A Continuing Program Evaluation Results document will be submitted and reviewed on a quarterly basis.

135. Database Management and Analysis

a. *Data Analysis.* The FAA has chosen to accomplish proficiency analysis, validation of performance measures and other statistical analysis and research at a central location for all AQPs. The analysis will be accomplished with equipment compatible with personal computers using an independent file for each applicant.

b. *Location of Data.* The Program Audit Database libraries may be located at any site agreed to by the Manager, Air Carrier Training Branch, and the applicant. Maintenance, storage and location of proficiency data (currency and performance) used for qualification will be the responsibility of the certificate holder (or training center, for its employees). Proficiency data, used by the applicant for validating qualification programs, will be kept at the principal training site designated by the operator.

Section 3. FAA Procedures for Approval Actions

136. Method of Granting Initial or Provisional Approval

a. *Approval by Letter.* The FAA will grant initial or provisional AQP approval by letter. The approval letter will include at least the following information:

(1) The specific identification of the curriculums and curriculum segments initially or provisionally approved including page numbers and revision control dates (date of revision for any page).

(2) A statement that initial or provisional approval is granted and what the effective and expiration dates (for initial approval) are.

(3) Any specific conditions affecting the approval.

(4) A request that the applicant provide the FAA with advanced notice of scheduled activities so evaluations may be planned.

b. *Copies.* A copy of the Audit Database Catalogue and the approval letter shall be maintained by the POI in the certificate holder's District Office during the period of initial approval. A copy of the same material shall be maintained by the Air Carrier Training Branch. Copies of a training center's provisionally approved curriculum material shall be maintained at the training center's local Flight Standards District Office, the Air Carrier Training Branch, and the assigned District Office of any certificate holder that is using the training center.

137. Method of Denying Initial or Provisional Approval

If the FAA determines that initial (or provisional approval for training centers) must be denied, the FAA will notify all the affected operators in writing. The letter will identify any deficiency which was the cause of denial. The principal applicant may redevelop or correct the deficiencies and resubmit the AQP for approval.

138. Withdrawal of Initial or Provisional Approval

The FAA may decide to withdraw initial or provisional approval at any time the AQP is not in regulatory compliance, does not provide for safe operations, or does not effectively prepare crewmembers or dispatchers to meet qualification objectives. The FAA will withdraw initial or provisional approval in writing to all affected operators stating the reasons for the withdrawal, and the effective date of withdrawal. An applicant who receives a letter of withdrawal may revise or refine the curriculum and resubmit it for initial or provisional approval.

139.–148. Reserved

149. Final Approval

Based on the results of evaluations accomplished during the period of initial approval, the FAA will grant or deny final approval of an AQP. Final approval is accomplished by stamped endorsement of AQP documents and by approval letter.

a. *Stamped Approval Endorsement.* For final approval, the original and a copy of each title page and table of contents pages of all AQP Program Audit Database documents are stamped approved, dated, and signed by a designated FAA operations official. The approval stamp will be a facsimile of the following:

FAA FINAL APPROVAL

OFFICE DESIGNATOR: _____.
EFFECTIVE DATE: _____.
NAME: _____.
SIGNATURE: _____.

As approved changes are made to AQP Program Audit Database documents, the "Final Approval" endorsement will be reaccomplished on each table of contents page.

b. *Approval Letter.* All letters of final approval will be signed by the Manager, Air Carrier Training Branch. When training centers are not involved, the Manager, Air Carrier Training Branch, may delegate this authority to the operator's assigned POI. The letter will specifically identify the subject curriculums, contain a statement that final approval is granted, and provide the effective date of approval.

c. *Copies.* A copy of the approval letter will be kept on file in the operator's assigned District Office, at the Air Carrier Training Branch, and at the location designated by the operator as its principal training site.

150.–157. Reserved

158. Revisions to an AQP

Circumstances that typically trigger revisions are changes in the kinds, size, or complexity of operations, changes in the configuration of aircraft, and changes in special authorizations permitted through operations specifications, maintenance programs, MELs; exemptions or deviations. Revisions will usually involve all or portions of each phase of the approval process. However, the process may be abbreviated according to the extent of the revision. The Manager, Air Carrier Training Branch, may delegate revision approval authority to POIs.

159. General Provisions for Withdrawal of Final Approval

The FAA may withdraw final approval of a curriculum any time if the FAA determines that sufficient safety reasons exist or that required data is not being maintained and provided. Before withdrawing approval, the FAA will make reasonable efforts to convince an applicant to correct its AQP. The FAA will withdraw approval by letter. The letter will identify the affected curriculums, state the reasons for the withdrawal, and state the effective date of the withdrawal (except in an emergency, not less than seven days after receipt of the letter). The letter will advise the certificate holder that withdrawal may be appealed and provide instructions on how to appeal.

160. Appeal of a Withdrawal

To appeal withdrawal of final approval, an operator should petition the Director, Flight Standards Service, for reconsideration within 30 days after receiving withdrawal notification. The petition should be in writing and explain in detail why the operator believes the withdrawal should not occur. The Director may immediately deny the petition after considering all relevant information presented to him if he believes that an emergency exists which directly affects aviation safety. In this case the Director will inform the operator, by letter, of his decision to deny the appeal due to the existence of an emergency. The letter will state that an emergency exists and describe the deficiencies and the actions necessary to correct them. If the Director does not believe that an emergency exists, he will carefully consider both the operator's petition for appeal and the FAA's reason for withdrawal of approval. In this case, the operator's petition, provided it goes out within 30 days, stays withdrawal and the operator may continue to use the AQP curriculum pending the decision of the Director, Flight Standards Service. The Director may find it necessary to conduct additional evaluations of the operator's AQP. In any case, the Director will make a final decision within 60 days of receiving the operator's petition. The Director may rescind or modify the letter of withdrawal or uphold the withdrawal. If the decision is to modify or uphold the withdrawal, the operator will be notified by letter. The letter will contain the reasons for denying all or part of the petition.

161. Expiration

Final approval does not expire.

162.–171. Reserved

Chapter 9. Advanced Qualification Program Validation

Section 1. Introduction

172. Purpose

This chapter provides guidelines for complying with AQP program validation requirements.

173. Validation Concept

Section 7(c) of SFAR 58 requires that each qualification and continuing qualification curriculum include procedures for collecting data from crewmembers, instructors, and evaluators. This data will be used to enable the FAA to determine if the overall objectives of an AQP curriculum are being achieved and to validate AQP curriculums. The concept of validation begins with the operator's process for developing an AQP and continues for the life of an AQP. There are four parts to the validation of an AQP: (1) The phased approval process; (2) the Program Audit Database; (3) the Performance/Proficiency Database; and (4) records kept on qualified personnel. Each of these parts is discussed in the following sections.

Section 2. Validation through the Phased Approval Process

174. Phased Approval Process

As explained in chapter 7 of this AC, development and approval of an AQP is accomplished in five phases. The phases are:

I. Initial Application;
II. Curriculum Development;
III. Training System Implementation;
IV. Initial Operations; and
V. Continuing Operations.

Each phase, and the three individual steps in Phase II, require FAA approval before proceeding to the next step or phase. The approval process is in itself a method for validating that the development procedures of an AQP have been appropriately used and that the management needed to maintain an AQP is occurring. The FAA provides guidance, review, and surveillance throughout the approval process.

Section 3. Program Audit Database

175. Documentation of an AQP

At the beginning of Phase I, an applicant will create a Program Audit Database. This is basically a file of documents that will be developed and kept current throughout all phases of development and approval. The applicant and the FAA use this data to validate program development, implementation, and maintenance. A list of the documents required for each phase is in appendix D. Procedures for creating the Program Audit Database are in chapter 2. Development activities and content requirements for each document are in chapter 7.

Section 4. Performance/Proficiency Database

176. Purpose of the Performance/Proficiency Database

An applicant will collect performance/proficiency data for instructors and evaluators during Phase III—Training System Implementation, and for all participants during Phase IV—Initial Operations, and Phase V—Continuing Operations. These data form the Performance/Proficiency Database. The data are used to validate student, instructor and evaluator proficiency; establish performance norms; validate Qualification Standards; and conduct research and development of CRM principles, methods, and measures. The applicant and the FAA will use data to evaluate the effectiveness of an AQP in meeting its objectives. The information may also be used to support a request for modification of an approved AQP. For example, if an applicant requests

FAA approval for extending evaluation periods in a continuing qualification curriculum, the applicant will support its request with collected data which show that present crewmember performance warrants the extension. Data will be used by the FAA to establish group performance norms and to judge AQPs according to how well they meet or exceed these norms. During the continuing qualification cycle data may be used to develop projections for how proficiency is maintained in terms of rising or falling performance. The FAA may also use this data in comparison with accident/incident statistics to ensure that AQP changes achieve the desired effect on accident/incident rates.

177. Specific Data Collection for Phases III, IV, and V

a. *Phase III: Training System Implementation.* Graded evaluator and instructor performance/proficiency data will be collected during training and evaluation.

b. *Phase IV: Initial Operations; Phase V: Continuing Operations.* In Phase IV during implementation of the first continuing qualification cycle and in Phase V during continuing operations the following data will be collected: (1) All terminal proficiency objective data for students, instructors, and evaluators will be gathered in training activities, online evaluations, and proficiency evaluations; (2) currency events will be recorded; and (3) CRM measures will be made.

178. Procedures for Performance/Proficiency Data Collection

a. *General Procedures.* Specific crewmember data will be maintained by the operator. All data to be provided to the FAA should be in summary form and deidentified prior to submission. Analysis of the data by the applicant and by the FAA should be at a level of group performance to identify performance trends. Where appropriate, crew complement performance should be measured and analyzed.

b. *Performance Evaluation.* All terminal proficiency objectives will be observed by evaluators. Those not observed in Line Operational Evaluation will be observed in proficiency evaluations or other methods appropriate to evaluation of the objectives.

c. *Pre-training Evaluation.* At the beginning of the formal training done at the end of an evaluation period, pre-training baseline performance evaluation data will be collected in a Line Operational Simulation with no jeopardy to the student. The type of data to be collected in pre-training evaluations is described below.

(1) *Routine Operations Items.* All events which have been selected as currency items will be validated by pre-training measurement. Pre-training data should be gathered on selected currency items to validate that proficiency is being maintained through routine operations. Proficiency objectives which the applicant intends to propose as currency items will also be tested. For example, if the applicant has decided (on the basis of the analysis described in chapter 7) to give currency item credit for critical fuel transfer operations during cruise in everyday operations, the applicant will collect data to validate the frequency with which a student operates the fuel panel in normal, everyday operations. The fuel transfer proficiency objective will then be evaluated through pre-training proficiency measurement. If fuel transfer performance data pre-training measurement is found satisfactory, the performance objective for that student may be designated as a currency item.

(2) *Non-routine Operations Items.* During pre-training evaluation, data will be collected on normal, abnormal and emergency procedure proficiency objectives which do not occur on a routine or frequent basis in everyday operations. Data should also be collected for environmental conditions that are not ordinarily encountered.

(3) *CRM Objectives.* CRM objectives will also be measured during pre-training evaluation.

(4) *Non-critical Terminal Proficiency Objectives.* The pre-training evaluation will include measurement of items classified as non-critical terminal proficiency objectives which are proposed to be spread throughout the full continuing training cycle (not addressed in each evaluation period).

d. *Cockpit Resource Management.* At the time of this writing, CRM issues and measures are not fully developed. Therefore, data should currently be collected without pass/fail consideration for those being evaluated. AC 120-51, as amended, "Cockpit Resource Management Training," provides additional guidance on CRM. In AQPs, specific CRM factors should be defined objectively. Examples of CRM factors include communication, situational awareness, problem solving, decision making, judgment, team management, stress management, team review, and interpersonal skills. Measurement methods might include evaluator rating scales, participant surveys and video tape critiques. All data should be anonymous except that the instructors or evaluators should be identified on crewmember surveys and evaluations. The FAA expects applicants to incorporate new CRM knowledge regularly.

e. *Automated Analysis Data.* An operator with an AQP is required to provide proficiency data in digital form to the FAA. The data will reflect all terminal proficiency objectives and include proficiency data gathered during pre-training, training, and evaluations. This anonymous, global data will be used to develop performance projections. When both evaluator ratings and automated performance measurement systems are used, the automated system will provide data for each proficiency objective that is also evaluator-rated. The automated performance measurement system should measure time out of tolerance (performance standards) for all terminal proficiency objectives.

f. *Data Requirements.* Individual or crew performance data should include a measure of proficiency objectives on a scale that discriminates levels of performance. At a minimum, a 5-point rating scale should be used. Data should be collected each time an evaluator observes performance of a proficiency objective during any type of evaluation.

(1) Evaluation data should include:

(i) Identification of the proficiency objective.

(ii) Date the objective was observed.

(iii) Ratings for each observation.

(2) Training data should also be collected for program evaluation and validation purposes. The crewmembers, instructors, and evaluators should be identified by code to protect anonymity. Training data should include:

(i) The total number of times each proficiency objective is performed by an individual and/or a crew.

(ii) The total number of times each proficiency objective is performed before it is successfully accomplished.

(iii) The ratings for each objective.

g. *Questionnaires.* At the end of a qualification curriculum or recurrent training session, an applicant may provide a questionnaire to students and instructors to solicit evaluation of the curriculum or training session. The questionnaire should provide a rating scale and the factors to be rated.

179. Analysis of Data

Data will be used for the following purposes.

a. *Validating Student, Instructor, Evaluator Proficiency.* Performance data is recorded in individual files to verify an individual's qualification to perform a duty. This data is not analyzed for

purposes of validating individual performance.

b. *Validating the Training Program.* Performance data should be used to validate the AQP. One example of the kind of analysis that may be done to validate the training program is to compare pre-training and post-training performance to determine the percentage of students who mastered each proficiency objective and their corresponding average scores. Another example is analysis of the number of repetitions of a performance objective before it is accomplished at the terminal proficiency level. This analysis will provide summaries that may show, for example, that 95 percent of all pilots in command have successfully accomplished a particular objective in 10 iterations with little improvement thereafter.

c. *Establish Performance Norms.* Summary distributions (e.g.; means, modes, standard deviations) of actual performance scores may be used to establish performance norms.

d. *Validate Terminal Proficiency Objectives.* Pre-training evaluation mean scores for currency item and other proficiency objectives will be examined. The frequency of training required to maintain proficiency will be examined.

e. *Conducting Research on Cockpit Resource Management.* Data may be used for research in CRM factors. One method of analysis is to compare pre-training evaluations and post-training proficiency scores by indicating the percent of students who successfully mastered CRM skills and the corresponding average score. Another method is to summarize variations in CRM performance scores which track variations in CRM training techniques or evaluation methods.

f. *Comparing Accident/Incident Data.* The FAA will compare specific proficiency objective scores (to include CRM factors) to performance suspected in accident/incidents.

180. Database Retention

The Performance/Proficiency Database will be maintained by the certificate holder or the training center. Anonymous data used for projections (including automated performance data measures), data for CRM research and development, and student/instructor/evaluator critiques of the AQP will be provided to the FAA. Only proficiency data is to be kept on a continuing basis. Data will be maintained on any proficiency objectives that are candidates for changes in requirements until the changes have been validated and granted final FAA approval.

Section 5. Records on Qualified Individuals

181. Recordkeeping Requirements

A certificate holder or training center will establish and maintain appropriate records to validate individuals' qualification. This section provides guidance for establishing and maintaining records. The recordkeeping requirements are a part of the approved Performance/Proficiency Database under an AQP and may be followed in lieu of the standard part 121 or 135 recordkeeping requirements.

182. Contents of Individual Records

The record for each individual who is being qualified or has qualified under an AQP should contain the following:

a. Full name (First, Middle Initial, Last) of the individual.

b. Duty Position(s).

c. Airman certificate type, number, and ratings (if applicable).

d. Date, class, and any limitations of the person's most recent medical certificate.

e. Aeronautical experience by hours, by aircraft, and by type of operation (i.e., FAR 121, foreign air carrier, military, etc.).

f. Make, model, and series aircraft (or variant) qualified to operate (by duty position).

g. Special Route/Area/Airport qualification as required.

h. Special operation qualifications; e.g., CAT II, CAT III.

i. The date of and reason for any action taken concerning an individual's release from employment, date, and reason.

183. Responsibility for Training and Qualification Records

Individual crewmember and dispatcher qualification records are the responsibility of the certificate holder. However, an operator may arrange for a training center to maintain the records of training and qualification for each individual qualified under an AQP. Existing records that comply with the AQP requirements and are otherwise acceptable to the FAA as meeting part 121 and 135 requirements do not need to be duplicated.

184. Individual Qualification Activity Records

Individual qualification activity records should include the following:

a. *Record Identification.* Each record should identify the make, model, and series aircraft (or variant), and duty position.

b. *Record Detail.* The operator will maintain records of indoctrination, qualification, continuing qualification, and accomplishments required by the approved AQP for the person's *current assignment(s).* These records will be maintained in sufficient detail to show how the individual satisfied the requirements of each curriculum. A line item entry that a curriculum was completed as of a particular date is not adequate.

The records should include:

(1) The completion date for each indoctrination curriculum modules or lessons.

(2) The completion dates for all qualification curriculum modules or lessons.

(3) The completion dates for continuing qualification curriculum activities. These records should contain:

(i) Currency events by date accomplished.

(ii) Online evaluations by date with grade.

(iii) Proficiency evaluations by date with grade.

(iv) Ground and flight training by date with grade.

c. *Other Training.* Records should show the result and completion date of other training and qualification that permitted an individual to advance to his current assignment.

185. Retention of Records

Records should be retained in accordance with the following guidelines.

a. *Minimum Retention.* The minimum retention period should ensure that a person's training and qualification status can be determined. To provide a baseline for program changes, detailed records, as described in paragraph 184 above, will be kept, showing each person's participation in the AQP during the first three evaluation periods for a new AQP curriculum. Thereafter records will be kept for at least the previous continuing qualification cycle. Actions more than one continuing qualification cycle old may be documented by a dated, line item record. However, if actions more than one continuing qualification cycle old are to be used as the basis for later qualifications (e.g., changing to another certificate holder, qualifying on a different make, model, and series aircraft (or variant)), detailed records will be kept available. In the absence of these detailed records, the individual may be required to qualify by completing all curriculum requirements. Certificate holders, individuals, and training centers should understand the risks associated with discarding detailed records.

b. *Retention after Release.* All records should be kept for at least 6 months after a person's release from a duty assignment.

186. Guidelines for Computerized Recordkeeping

The FAA may approve the use of computer record systems. The following guidelines are provided for approval of computerized recordkeeping systems.

a. *Guidelines.* When designing a computerized recordkeeping system, use the following considerations:

(1) Records should contain all the information required for a manual system.

(2) Each record should be certified by an instructor, supervisor, or evaluator.

(3) The certificate holder or training center should designate a representative to be responsible for checking and validating the accuracy and completeness of the record.

b. *Approval.* The following outlines the approval procedure for a computerized recordkeeping system.

(1) *Initial Approval.* Initial approval may be granted at the end of Phase III to use a computerized recordkeeping system. A request for initial approval should identify:

(i) The type and location of computer equipment.

(ii) The methods used for providing duplicate records during the period of initial approval.

(iii) The methods and schedules for updating records.

(iv) The means used for identifying individuals.

(v) The type and amount of training provided to qualify personnel who operate and maintain the recordkeeping system.

(vi) The means used to identify instructors, supervisors or evaluators who certify results of training, evaluation, and/or qualification.

(vii) The validation checks proposed to verify the accuracy of information before it is entered into the computerized system.

(viii) The identity of the person(s) responsible for conducting the validation checks.

(ix) A procedure which ensures that persons responsible for making data entries are clearly identified and that entries are made only under the direct control of those persons.

(2) *Final Approval.* Final approval (at the end of Phase IV), is appropriate only after an operational demonstration shows that the computerized recordkeeping system is accurate, secure, and adequate to support the AQP.

187.–190. Reserved

Chapter 10. Qualification of Training Equipment for Use in an AQP

Section 1. Approval Procedures for all Training Equipment

191. General

Any simulator or training device that is intended to be used in an AQP for any of the following purposes must be qualified as a flight simulator or a flight training device: (1) required evaluation of individual or crew proficiency; (2) training activities that determine if an individual is ready for an evaluation; (3) activities used to meet recency of experience requirements; and (4) Line Operational Simulations (LOS). To be qualified, a simulator or training device will be evaluated against a set of criteria established by the Administrator for a particular level of simulation (a qualification level). A qualified flight simulator or flight training device will be specifically approved by the FAA for its intended use in an AQP. A flight simulator or flight training device will be part of a flight simulator or flight training device continuing qualification program. All other training equipment (not used for any purpose listed above) will be identified by the applicant and its use approved by the Manager, Air Carrier Training Branch. This chapter outlines acceptable procedures for the qualification, approval, and continuing qualification of flight simulators and flight training devices for use in an AQP and for approval of other training equipment used in AQP. Appendix F of this AC provides functional descriptions of flight training equipment.

(Note: When used in this chapter the terms "evaluation," "qualification" and "continuing qualification" apply to training equipment and should not be confused with the use of these terms in other chapters of this AC.)

Section 2. Specific Procedures for Qualification and Approval of Flight Simulators and Flight Training Devices

192. Criteria for Flight Simulator and Flight Training Device Qualification

The National Simulator Program Manager shall approve the qualification level of a flight simulator or flight training device in accordance with the following criteria:

a. The criteria for airplane simulators is in AC 120–40, as amended, "Airplane Simulator Qualification."

b. The criteria for flight training devices is in AC 120–45, as amended, "Airplane Flight Training Devices Qualification."

c. Criteria for helicopter simulators and training devices qualification are being developed and will be released at a later date in an AC.

193. Initial Approval of Flight Simulators and Flight Training Devices for Use in an AQP

As part of the approval of an AQP, the Manager, Air Carrier Training Branch, will approve use of a flight simulator or flight training device for use in the AQP. Appendix C of this AC presents tables that specify the use of flight simulators and flight training devices in an AQP. Each AQP curriculum segment which includes use of a flight simulator or flight training device should specify the make, model, serial number and manufacturer of the flight simulator or flight training device or the FAA identification number of the flight simulator or flight training device assigned by the National Simulator Program Manager.

194. Currently Qualified Devices

Training devices and simulators currently qualified as flight training devices and flight simulators by the FAA may be used in approved AQPs at the current qualification level without completing an additional qualification evaluation.

195. Devices Not Currently Qualified

Candidate devices (not currently qualified by the Administrator) may not be used as flight training devices or flight simulators equipment in an approved AQP until they are qualified.

196. Continuing Qualification of Flight Simulators and Flight Training Devices

Each flight simulator and flight training device used in an AQP should:

a. *Maintain the performance,* functions, and other characteristics that are required for that qualification level as demonstrated during the initial or upgrade evaluation;

b. *Be modified to conform with any modification* to the aircraft being replicated or any modification or change to the mathematical model used that results in a change in the performance, functions, or other characteristics that may affect the operation of the device at that qualification level;

c. *Be given a daily functional preflight test* administered by maintenance before use;

d. *Have a daily discrepancy log* that is maintained for the instructor or evaluator to enter each discrepancy at the end of each training or evaluation session, and for the maintenance personnel to enter each discrepancy after a daily functional preflight test but

before the simulator is used for training and/or evaluation;

e. *Have a documented software configuration control system* which contains a record of all software changes or modifications and which assures that systems software changes which might offset flight performance in handling qualities, ground handling, or systems functions approved by the Administrator be implemented only after notification to and concurrence by the Administrator; and

f. *Have an approved Component Inoperative Guide* to reflect the authorized use if a performance feature, or other characteristic, does not continue to meet initial qualification criteria.

197. Failure To Maintain Initial Qualification Level

Except as noted in the paragraph below, training devices or flight simulators failing to maintain the performance, functions, and other characteristics that are required for initial qualification may not be used in training, evaluation, or certification of airmen to ensure attainment of terminal proficiency objectives.

198. Component Inoperative Guide

If the Administrator has authorized the use of a Component Inoperative Guide (CIG) for the flight training device or flight simulator, and any performance, functions, or other characteristic does not meet the criteria for initial qualification because of an inoperative component listed in the CIG, the FAA will limit but not prohibit the use of the device in the AQP.

199. Responsibility of Sponsor

As used in this AC with respect to flight training devices and flight simulators, a "sponsor" is a person who requests that the Administrator conduct an evaluation of a flight training device or flight simulator for assignment of a qualification level; and agrees to accept the responsibilities outlined in paragraphs a., b., and c. below.

a. *Maintaining Performance Level.* Each sponsor of a flight training device or flight simulator used in an AQP shall be responsible for ensuring that the device maintains the performance, functions, and other characteristics required for the qualification level assigned as a result of the initial or upgrade evaluation.

b. *Maintenance.* The sponsor may arrange with another person for the maintenance, preventive maintenance, or required testing of the device; however, this does not relieve the sponsor of the responsibility in paragraph a. above.

c. *Component Inoperative Guide (CIG).* The sponsor shall remove the flight training device or flight simulator from use, or limit its use according to the CIG, when the sponsor is first made aware that any problem exists with the device that affects its performance, functions, or other characteristics. In such situations, as soon as possible, the sponsor will inform any person using, or scheduled to use, the device that its use has been suspended or limited, and, if limited, how it has been limited.

d. *Withdrawing Sponsorship.* At least 30 days before withdrawing as a sponsor, the sponsor should notify the Administrator and any person using, or scheduled to use, the device that he is withdrawing as sponsor of the flight training device or flight simulator.

200. Scheduled Recurrent Evaluations

Flight training devices and flight simulators previously qualified by the Administrator and used in an AQP will follow the previously arranged and approved schedule for recurrent evaluation and the currently approved Approval Test Guide (ATG). However, the evaluation will be conducted as outlined in this AC and recorded as a scheduled recurrent evaluation. Subsequent scheduled recurrent evaluation will follow an established due date. Flight training devices and flight simulators not previously qualified by the Administrator or those being upgraded for use in an AQP shall be included in a continuing qualification program and evaluation schedule.

201. Time Periods for Scheduled Recurrent Evaluations

The scheduled recurrent evaluations shall be accomplished according to the following schedule:

a. *The first scheduled recurrent evaluation* will be conducted not later than the sixth month after the initial or upgrade evaluation. After this first recurrent evaluation, a due month will be scheduled for subsequent recurrent evaluations.

b. *Subsequent scheduled recurrent evaluations* should be conducted at 12-month intervals except as noted below. Failure to accomplish an evaluation in accordance with the evaluation schedule will result in loss of qualification status for the device.

c. *Flexibility.* Scheduled recurrent evaluations conducted in the month before or the month after the due month will be considered to have been accomplished during the due month. Scheduled recurrent evaluations may also be conducted more than one month before the due month if properly coordinated. However, this would establish a new due month for subsequent scheduled recurrent evaluations.

d. *Time Required for a Recurrent Evaluation.* Scheduled recurrent evaluations will normally be scheduled for 8 hours and will consist of functional tests and approximately 50 percent of the tests in the ATG. Additionally, in accordance with a schedule approved by the Administrator and at 2 equally spaced intervals between the scheduled recurrent evaluations, the sponsor will conduct 50 percent of the balance of the validation tests (25 percent of the ATG tests), certify that the test results are within prescribed tolerances, and maintain the results in a file for review by the National Simulator Program Manager. Such a schedule means that all validation tests in the ATG will be completed annually.

202. No-Notice Evaluations

During the interval between the scheduled recurrent evaluations, the Administrator will conduct at least 1 no-notice recurrent evaluation.

a. *Content.* A no-notice recurrent evaluation will consist of the following:

(1) A review of ATG validation tests accomplished since the last recurrent evaluation (either scheduled or no-notice);

(2) A review of the device's discrepancy log (including daily maintenance preflight, discrepancies, and action taken to clear discrepancies); and

(3) Observation of the device during normally scheduled training or evaluation functions.

b. *Additional Content.* If the device is available, the following items may also be accomplished:

(1) Assessing the state of the visual, motion, and other systems; and

(2) Flying the device.

c. *Reason for Limiting the Content.* A no-notice recurrent evaluation does not have the same level of detail and does not take as long as a scheduled recurrent evaluation because it is based on the premise that the sponsor is maintaining the performance, functions, and other characteristics of the device at the level required for initial qualification.

203. Change of Qualification Level

The upgrading of a flight training device or flight simulator may occur only after initial or upgrade evaluation. The downgrading of a flight training device or flight simulator may occur

only after a special evaluation or a scheduled recurrent evaluation.

204. Discrepancies

If the flight training device or flight simulator evaluator observes a discrepancy during the scheduled recurrent evaluation or the no-notice evaluation which, in his opinion, may affect the qualification status, he may, after notifying the sponsor of his discovery, and at his discretion, withdraw the qualification status of the device. This original qualification status may be regained through correction of the discrepancy and on the authority of the National Simulator Program Manager.

Section 3. Approval of Training Equipment Other Than Flight Training Devices or Flight Simulators

205. Initial Approval

Each device (other than flight training devices or flight simulators) to be used in an AQP shall be identified in the Supporting Data Package (see paragraph 83.d.(5)) by its nomenclature along with a description of its intended use. In the AQP Supporting Data Package, the applicant will explain the relationship of the equipment performance to the training it will support. The FAA will review proposed training equipment requirements during the application phase and when evaluating the syllabus lessons. Phase II approval of a syllabus will include initial approval of all associated training equipment.

206. Maintaining Approval and Performance

a. *Responsibility.* The applicant is responsible for continuous maintenance of any training equipment.

b. *Maintenance of Equipment Functions.* To ensure that all training equipment continuously functions as intended, each applicant should:

(l) Provide all proposed equipment modifications to the FAA for approval.

(2) Conduct a daily functional check before use of the equipment.

(3) Provide a discrepancy log.

(4) Provide a maintenance and configuration control system that documents maintenance and FAA approved modifications.

c. *FAA Evaluation of Applicant's Maintenance.* The maintenance and configuration control system will be capable of detecting deficiencies in training equipment performance and requirements for adjusting training equipment utilization in an AQP. Deficiencies will be corrected through modification of the equipment and/or the curriculum. The FAA will evaluate the applicants ability to maintain training equipment during:

(1) The formative evaluation conducted in Phase III.

(2) The summative evaluation conducted during Phase IV.

(3) Continuing operation conducted during Phase V.

207.–300. Reserved

Appendix A

Considerations for Indoctrination Curriculum Subjects

A. Certificate Holder-Specific Indoctrination

The subject area of an indoctrination curriculum referred to as "certificate holder-specific" includes elements that pertain to the certificate holder's methods of compliance with regulations and safe operating practices. The following are examples of possible elements of certificate holder-specific subject areas for flight crewmembers:

(1) Duties and responsibilities:

- Company history, organization, and management structure.
- Operational concepts, policies, and kinds of operation.
- Company forms, records, and administrative procedures.
- Employee professional and rules of conduct.
- Authority and responsibilities of duty position.
- Personal equipment.
- Company Manual organization, revisions, and employee responsibilities concerning manuals and after their use during line operations.

(2) Appropriate provisions of the Federal Aviation Regulations and other applicable regulations:

- Flight crewmember certification, training, and qualification requirements.
- Medical certificates, physical examinations, and fitness for duty requirements.
- Flight control requirements (dispatch, flight release or flight locating).
- Flight time limitations, duty periods and rest requirements.
- Recordkeeping requirements.
- Company manuals.
- Flightcrew emergency authority, what to do in the event of interference with crewmembers, how to report these occurrences.

(3) Content of Operating Specifications:

- Regulatory basis in part 121 or part 135 (as applicable) and the FA Act of 1958 (as amended).
- Definitions, description, and organization of operations specifications.
- Limitations and authorizations of operations specifications.
- Description of operations authorized under the certificate.
- Description of FAA certificate holding district office and responsibilities of FAA principal inspectors.

(4) Emergency situations:

(a) Flight crewmember duties and responsibilities.

- Emergency assignments.
- Pilot in Command's emergency authority.
- Reporting incidents and accidents.

(b) Crew coordination and company communication:

- Cabin crew notification procedures.
- Ground agencies (FAA, Airport Authority) notification procedures.
- Company communication procedures.

(c) Ground Evacuation:

- Aircraft configuration.
- Directing passenger flow.
- Blocked or jammed exit procedures.
- Fuel spills and other ground hazards.
- Handicapped persons.

(d) Ditching:

- Cockpit and cabin preparation.
- Passenger briefing.
- Crew coordination.
- Primary swells, secondary swells, and sea conditions.
- Ditching heading considering wind and water conditions.
- Ditching at night.

(e) Previous aircraft accidents/incidents:

- NTSB accident report reviews.
- Human factors/considerations.
- NASA reporting system.

B. Duty Position-Specific Indoctrination

The duty position-specific modules of an indoctrination curriculum segment provide a basis for students to enter subsequent qualification curriculums. These modules address appropriate portions of a certificate holder's manual and the standard practices of airmanship and flight procedures referenced in other documents such as the Airman's Information Manual. Emphasis in duty position-specific training is not *aircraft* specific. Instead, it should relate to the kinds of operation and general characteristics of the certificate holder's fleet of aircraft. The objective of duty position-specific training is to ensure each student has acquired the basic knowledge and abilities necessary for part l21 and/or part 135 operations. The scope of duty position-specific training varies according to the anticipated duty position evaluators (EV), instructors (IN), pilots-in-command (PIC), seconds-in-command (SIC), flight engineers (FE), aircraft dispatchers (AD), and flight attendants (FA). The following are examples of possible elements for the "duty position-specific" subject areas for flight crewmembers:

(1) Company Flight Control:

- Dispatch, flight release, or flight locating systems and procedures (as applicable).
- Organization, duties, and responsibilities.
- Weather and Notice to Airman information.
- Company communications.

(2) Principles of Weight and Balance:

- Definitions (such as zero fuel weight, moment, etc.).
- General loading procedures and center of gravity computations.
- Effects of fuel burn and load shifts in flight.
- Weight and balance forms, load manifests, fuel slips and other applicable documents.

(3) Principles of Aircraft Performance and Airport Analysis:

• Definitions (such as balanced field, VMC, obstruction planes, maximum endurance, etc.).
• Effects of temperature and pressure altitude.
• Ground Proximity Warning Systems (GPWS).
• TERPS criteria (obstacle clearance standards).
• Airport analysis system (as appropriate to the kinds of operation and aircraft used).
• Effects of contaminated runways.
(4) Principles of Meteorology:
• Basic weather definitions (such as forecasts, reports, and symbols).
• Temperature, pressure, and winds.
• Atmosphere moisture and clouds.
• Air masses and fronts.
• Thunderstorms, icing and windshear.
(5) Principles of Navigation:
• Definitions (such as class I, class II navigation).
• Basic navigational instruments and equipment.
• Concepts and procedures pertaining to dead reckoning and pilotage.
• Navigational aids.
• VHF, VLF, LORAN and self-contained systems (as applicable).
(6) Airspace and ATC Procedures:
• Definitions (such as precision approaches, airways, and ATIS).
• Description of airspace.
• Navigation performance and separation standards.
• Controller and pilot responsibilities.
• ATC communications.
• Air traffic flow control.
(7) Enroute and Terminal Area Charting and Flight Planning:
• Terminology of charting services such as Jeppesen or NOAA.
• Takeoff minimums, landing minimums, and alternate requirements.
• Company flight planning procedures.
• Flight service and international procedures (as applicable).
• Airport diagrams.
(8) Concepts of Instrument Procedures:
• Definitions (such as MDA, HAA, HAT, DH, CAT II, ILS, and NOPT).
• Non-precision approaches.
• Circling, visual, and contact approaches (as applicable).
(9) Emergency Situations:
(a) Aircraft Fires
• Principles of combustion and classes of fire.
• Toxic fumes and chemical irritants.
• Use of appropriate hand held extinguisher.
• Lavatory fires.
• Smoke masks, goggles, and Protective Breathing Equipment (PBE).
(b) First Aid and Medical Equipment:
• Contents of first aid kit.
• Contents of the medical kit.
• Kit integrity requirements.
• Use of individual items.
(c) Illness, injury, and basic first aid:
• Principles of CPR.
• Ear and sinus blocks.
• Seeking medical assistance.
• Treatment of shock.
• Heart attack.
• Emergencies during pregnancy.
(d) Rapid Decompression:
• Respiration.
• Hypoxia, hypothermia, hyperventilation.
• Time of useful consciousness.
• Gas expansion/bubble formation.
• Physical phenomena and actual incidents.
(e) Crewmember incapacitation:
• Company procedures.
• Reporting requirements (NTSB).
• Interference with crewmembers resulting in incapacitation.
(f) Uninhabited Environment Situations:
• Basic survival.
• Decision to remain within aircraft.
• Position reporting and communications.
• Emergency ground to air signals.
• Shelter, food, and water.

Appendix B—Considerations for Pilot and Flight Engineer Ground Training Subjects

To be qualified for a particular duty position in a specific make, model, and series aircraft (or variant), a person needs aircraft specific ground training. This training for both qualification and continuing qualification curriculums includes general operational subjects, aircraft systems, aircraft system integration, and emergency drill training.

A. General Operational Subjects

The subject area referred to as "general operational subjects" includes instruction on operational requirements that are specific to the aircraft in which qualification is being conducted. General operational subjects might include the following:
(1) Dispatch, flight release, or flight locating procedures.
(2) Weight and balance procedures including use of company weight and balance forms.
(3) Adverse weather practices including procedures which will be followed when operating in the following conditions:
• Icing.
• Turbulence.
• Heavy precipitation.
• Thunderstorms with associated windshear and microburst phenomena.
• Low visibility.
• Contaminated runways.
(4) Procedures for operating communications and navigation equipment in accordance with the following:
• Specific company communications requirements.
• ATC clearance requirements.
• Area departure and arrival requirements.
• Enroute requirements.
• Approach and landing requirements.
(5) Specific performance characteristics of the aircraft during all flight regimes including:
• The use of charts, tables, tabulated data and other related manual information.
• Normal, abnormal and emergency performance problems.
• Meteorological and weight limited performance factors (temperature, pressure, contaminated runways, precipitation, climb/runway limits).
• Inoperative equipment performance limiting factors (for example, inoperative anti-skid, if allowed by MEL).
• Special operational conditions such as unpaved runways, high altitude airports and drift down requirements.

B. Aircraft Systems

The second subject area of a qualification curriculum is "aircraft systems." Instruction and evaluation on each aircraft system should be given in sufficient detail to ensure the student clearly understands system components, limitations, relevant controls, actuators, annunciators and procedures for the various system configurations he will use. It is not possible to list every conceivable aircraft system that should be included in a curriculum segment; however, the following illustrates the depth and scope that should be provided:
(1) Aircraft General. Typical elements include an overview of the basic aircraft such as dimensions turning radius, panel layouts, cockpit and cabin configurations, and other major systems and components or appliances.
(2) Powerplants. Typical elements include a basic description of the engine, its thrust rating, engine components such as accessory drives, ignition, oil, fuel control, hydraulic, and bleed air features.
(3) Electrical. Typical elements should include the sources of aircraft power including engine driven generators, APU generator, and external power. Other elements include electrical buses and related components such as circuit breakers, fuses, aircraft batteries and other applicable standby power systems.
(4) Hydraulic. Typical elements are the hydraulic reservoirs, pumps, accumulators; the means of routing hydraulic fluid through filters, check valves, interconnects to associated actuators and other hydraulically operated components.
(5) Fuel. Elements include the fuel tank system (location and quantities), engine driven pumps, boost pumps, systems valves, crossfeeds, quantity indicators and provisions (if applicable) for fuel jettisoning.
(6) Pneumatic. Typical elements include bleed air sources such as engine, APU, or external ground air; the means of routing, venting and controlling bleed air via associated valves, ducts, chambers, and the purpose and operation of temperature and pressure limiting devices.
(7) Air Conditioning and Pressurization. Typical elements include heaters, air conditioning packs, fans, and other environmental control devices. Pressurization system components include elements such as outflow and relief valves with associated automatic, standby, and manual pressurization controls and annunciators.
(8) Flight Controls. Elements include primary controls (yaw, pitch, and roll devices) and secondary controls (leading/trailing edge devices, flaps, trim, and damping mechanisms). Automatic stability and control systems should be included. Redundant systems capabilities should also be included.
(9) Landing Gear. Typical elements are the landing gear extension and retraction mechanism (including the operating sequence of struts, doors, and locking devices), brake

and, if applicable, antiskid systems. Other typical elements include steering (nose or body steering gear), bogie arrangements, air/ground sensor relays, and visual downlock indicators.

(10) Ice and Rain Protection. Typical elements include each anti-icing and deicing system which prevents or removes airfoil, flight control, engine, pitot-static probe, fluid outlet, cockpit window, and aircraft structure ice. Other typical elements include system components such as pneumatic/electrical valves, sensors, ducts, electrical elements, or pneumatic devices, and pumps.

(11) Equipment and Furnishings. Typical elements are aircraft exits, galleys, water and waste systems, lavatories, cargo areas, crewmember and passenger seats, bulkheads, seating or cargo configuration, and non-emergency equipment and furnishings.

(12) Navigation Equipment. Typical elements are flight navigation system components including flight directors, horizontal situation indicators, radio magnetic indicators, navigation receivers (ADF, VOR, OMEGA, LORAN–C, RNAV, Marker Beacon, DME, etc.). Other typical elements include inertial system (INS, IRS), functional displays, fault indicators, comparator systems, transponders, radio altimeters, weather radars, and cathode ray tube (or other computer generated) displays of aircraft position and navigation information.

(13) Auto Flight System. Typical elements include such items of equipment as the autopilots, autothrottles and their interface with aircraft flight director and navigation systems including automatic approach tracking, autoland, and automatic fuel or performance management systems.

(14) Flight Instruments. Typical elements should include an overview of the panel arrangement and the electrical, pneumatic, and primary and alternate pitot-static sources for flight instruments. Other elements include attitude, heading (directional gyro and magnetic), airspeed and vertical speed indicators, altimeters, standby flight instruments, and other relevant instruments.

(15) Communication Equipment. Typical elements include VHF/HF radios, audio panels, service and inflight interphone system, passenger address systems, voice recorders, and air/ground data communications systems (ACARS).

(16) Warning Systems. Typical elements are aircraft aural, visual, and tactile warning systems including recognition of the character and degree of urgency related to each signal. Other typical elements include warning and caution annunciator systems including windshear, and ground proximity and takeoff warning systems.

(17) Fire Protection. Typical elements include fire and overheat sensors, loops, modules, or other means of providing visual and/or aural indications of fire or overheat detection. Other typical elements include procedures for use of fire wall shutoff controls, manual and automatic extinguishing systems, and power sources necessary to provide protection for fire and overheat conditions in engines, APUs, cargo bays, wheel wells, the cockpit, the cabin, and lavatories.

(18) Oxygen. Typical elements are the aircraft oxygen system including the fixed passenger, crew systems, and installed portable systems. Other typical elements include sources of oxygen (gaseous or solid), flow and distribution networks, automatic deployment systems, regulators, pressure levels, gauges, and servicing requirements.

(19) Lighting. Typical elements are the cockpit, cabin, and external lighting systems including power sources, switch positions, and spare lightbulb locations.

(20) Emergency Equipment. Typical elements describe the type, location, use, and purpose of each installed item of emergency equipment such as fire and oxygen bottles, protective breathing equipment (PBE), first aid kits, life rafts, life preservers, crash axes, emergency exits and lights. Other typical elements include each item of egress equipment such as slides, slide rafts, escape straps or handles, hatches, ropes, ladders or moveable stairs.

(21) Auxiliary Power Unit (APU). Typical elements should include installation of the APU, its capacity and operation, including its electrical and bleed air capabilities and how it interfaces with the aircraft systems. These elements include APU components such as inlet doors, exhaust ducts, and fuel supply.

C. Aircraft System Integration

The third subject area of a qualification curriculum is referred to as "System Integration." This area provides instruction and evaluation on how aircraft systems interrelate with respect to normal, abnormal, and emergency procedures. This training ranges from procedures as basic as how to apply power to the aircraft electrical and pneumatic systems with the APU, to complex tasks such as how to program computerized navigation and autoflight systems. System integration should include developing flightcrew interaction in the use of checklists and other operational procedures. It is normally conducted using training equipment which portrays a specific cockpit layout and includes switch and indicator logic. The flight training devices and flight simulators described in Advisory Circular 120–45, as amended, "Airplane Flight Training Devices Qualification," and Advisory Circular 120–40, as amended, "Airplane Simulator Qualification," may be used for system integration. Additionally, computer based instruction or other interactive media may be used. System integration may be conducted in concert with aircraft systems training or as an independently conducted part of a qualification curriculum. System integration serves as a logical connection between ground instructional delivery methods and flight training. It allows students to become familiar with a particular cockpit layout, checklists, operator procedures, and other areas which are best learned before conducting actual flight events. The following are examples of typical system integration elements:

(1) Use of Checklist. Typical elements include safety checks, cockpit preparation (switch position and checklist flows), checklist callouts and responses, and checklist sequence.

(2) Flight Planning. Elements typically include performance limitations (meteorological, weight, and MEL/CDL items), required fuel loads, weather planning (lower than standard takeoff minimums or alternate airport requirements).

(3) Display Systems. Typical elements include use of weather radar and other CRT displays (checklist, vertical navigation or positional navigation displays).

(4) Navigation Systems. Elements typically include preflight and inflight operation of receivers, on-board navigation systems, and flight plan information input and retrieval.

(5) Autoflight. Typical elements include the autopilots, autothrust, and flight director systems including appropriate procedures, normal and abnormal indications, and annunciators.

(6) Cockpit Familiarization. Typical elements involve activation of aircraft system controls and switches to include normal, abnormal, and emergency switch and control positions and relevant annunciators, lights and/or other caution and warning systems.

System integration is particularly effective where aircraft are equipped with relatively sophisticated computerized navigation, flight director, performance, and/or autoflight systems. The key to effectiveness in this area is to use training equipment which provides an accurate, real time capability, and interactive media for student practice. The functional requirements of these devices do not necessarily include motion, visual systems or aircraft specific flight handling characteristics. However, each device should accurately portray relevant keyboards, switches, other controls, CRT's and other displays and will usually include air/ground and flight path logic.

D. Emergency Drill Training

The fourth subject area of a qualification curriculum is Emergency Drill Training. This training might include at least the following events:

(1) Operation of each type of emergency exit in the normal and emergency modes.

(2) Operation of each type of hand held fire extinguisher.

(3) Operation of each type of emergency oxygen system.

(4) Donning, use, and inflation of life preservers and the use of other flotation devices (if applicable).

(5) Ditching procedures (if applicable) including cockpit preparation, crew coordination, passenger briefing and cabin preparation, the use of lifelines, and boarding of passengers and crew into a life-raft or slide raft.

(6) Donning and use of protective breathing equipment.

Appendix C—Tables of Qualification Events and Associated Flight Training Equipment

The following tables provide a list of qualification events which may be used in developing approved flight curriculum segments for airplane operations. An applicant who proposes to deviate from the provisions in these tables should consult the guidance in Chapter 7 of this AC. Symbols used in these tables are as follows:

(S) The certificate holder or training center should specify in its curriculums if the event requires seat specific qualification.

Q Whenever a pilot first undergoes qualification (with the particular Part 121 and Part 135 certificate holder) to operate a specific category and class of aircraft with a specific kind of powerplant, certain events should be accomplished in at least the media indicated by the letter "Q." For example: A Convair 580 PIC who was never qualified in a turbojet with the same airline would be required to use at least a Level C flight simulator for qualification in a DC–9.

[ ] Indicates an event which should be included in a curriculum if the certificate holder's operations specifications authorize the specific kind of operation.

X Indicates the beginning and end of the range of media authorized for use in training, evaluation, and certification.

P Indicates that partial task credit is awarded using the indicated media. Full credit may be taken on the media between the lowest and highest "X."

M Indicates motion is required to perform the event in the specified level of training device.

V Indicates specified events that may be performed in the designated level of simulator if the National Simulator Program Manager determines the simulator's visual system is adequate for the event.

(ME) Indicates an event applicable only to multiengine aircraft.

Others Is for additional events, identified by AQP development methods, including maneuvers and procedures unique to an aircraft or its operation.

Performance Turn A turn using the minimum turn radius as limited by available thrust and by compliance with the certificate limits established for the aircraft. Performance turns are intended to demonstrate handling and performance qualities in accelerated flight and to demonstrate the characteristics and features of automatic flight control systems in turning, banking, and accelerated flight.

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FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
PREPARATION	Visual Inspection									*X
	Pre Taxi Procedures	X								X
	Flight Planning * Weather * MEL/CDL * Performance Limitations * Weight & Balance			X						X
	Others									
SURFACE OPERATIONS	Normal/Alternate									
	Starting	X								X
	Pushback {S}					X				X
	[] Powerback {S}						X			X
	Taxi {S}							X		X
	[] CAT III Taxi {S}							X	X	
	Pre Takeoff Checks	X								X
	Post Landing Checks	X								X
	Parking {S}							X		X
	Shutdown	X								X
	Others									

* A set of properly detailed and sequenced pictorials may be approved.

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
SURFACE OPERATIONS	Abnormal/Emergency									
	Starting	X								X
	Emergency Evacuation			X						X
	Shutdown	X								X
	Open									
TAKEOFF	Normal/Alternate									
	Normal					X		Q		X
	Crosswind					X		Q		X
	Special Performance					X		Q		X
	[] Low Visibility					X		Q		X
	Open									
	Abnormal/Emergency									
	Crosswind (Normal in an aircraft when no crosswind situation exists) w/simulated failure of the most critical powerplant at the most critical point along the takeoff path which requires a decision to discontinue the takeoff.					X		Q		X
	Open									

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
TAKEOFF	Abnormal/Emergency									
	Crosswind (ME) (Normal in aircraft if no crosswind situation exists) with a simulated failure of the most critical powerplant at the most critical point along the takeoff path which requires a decision to continue the takeoff.					X		Q		X
	Rejected Special Performance with maximum braking			P	P	X			X	P
	[] Rejected Low Visibility					X				X
	Open									

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
INFLIGHT OPERATION	Normal/Alternate									
	Climb			X	—	—	—	—	—	X
	Enroute Navigation		X	—	—	—	—	—	—	X
	High Speed Handling Characteristics					X	—	—	Q	X
	High Altitude Handling Characteristics					X	—	—	Q	X
	Descent			X	—	—	—	—	—	X
	Others									
	Abnormal/Emergency									
	Climb with failure of critical powerplant (ME)					X	—	—	—	X
	Enroute Navigation		X	—	—	—	—	—	—	X
	Maximum Rate Descent					X	—	—	—	X
	Others									
INFLIGHT MANUEVER	High Angle of Attack Manuevers					X	—	—	Q	X
	Performance Turns					X	—	—	—	X
	Others									

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
VFR ENROUTE TERMINAL OPERATIONS (REQUIRED IF CERTIFICATE HOLDER IS AUTHORIZED TO CONDUCT VFR ENROUTE OPERATIONS)	Normal/Alternate									
	Traffic Patterns							V	V	X
	Others									
	Abnormal/Emergency									
	Traffic Patterns -any emergency/ abnormal airplane configurations							V	V	X
	Others									
NONPRECISION IFR APPROACHES	Normal/Alternate									
	[] Nonprecision Skill Group 1 (includes ASR)		X							X
	[] Nonprecision Skill Group 2 (includes NDB)			X						X
	[] Nonprecision Skill Group 3 (includes LOC B/C)			X						X
	[] Nonprecision Skill Group 4 (includes VOR, RNAV, TACAN)		X							X
	[] Nonprecision Skill Group 5 (includes AZI, LDA, LOC, SDF)		X							X

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

FLIGHT PHASE	EVENT	TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
		4	5	6	7	A	B	C	D	
NONPRECISION IFR APPROACHES	[] Nonprecision Skill Group 6 (DME ARC)		X							X
	Open									
	Abnormal/Emergency [] Nonprecision Skill (Any Group) including missed approach with failure of the most critical powerplant during approach procedure				X					X
	Open									

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

FLIGHT PHASE	EVENT	TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
		4	5	6	7	A	B	C	D	
PRECISION IFR APPROACH	Normal/Alternate									
	[] Precision Skill Group 1 (includes PAR)			X						X
	[] Precision Skill Group 2 (includes ILS/MLS & CAT I ILS/MLS)			X						X
	[] Precision Skill Group 3 (CAT II ILS/MLS) (S)			X						X
	[] Precision Skill Group 4 (CAT III ILS/MLS) (S)			X						X
	[] Precision Skill Group 5 (Steep ILS/MLS)			X						X
	Open									
	Abnormal/Emergency									
	[] Precision Skill (Any Group) including missed approach with failure of most critical power-plant during the approach				X					X
	Open									

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
VISUAL SEGMENT AND LANDING	Normal/Alternate									
	[] From VFR Traffic Pattern from VFR Enroute							V	V	X
	From a Non-Precision Instrument Approach (including final approach segment)							X	Q	X
	[] From a Circling Approach (including final approach segment)							V	V	X
	From a Precision Approach (including final approach segment)							X	Q	X
	[] From a CAT II Approach							X		X
	[] From a CAT III Approach							X	X	
	[] Special Performance							X	Q	X
	Crosswind							X	Q	X
	Currency Landings						X			X
	Others									

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

FLIGHT PHASE	EVENT	TRAINING DEVICE LEVEL 4	5	6	7	SIMULATOR LEVEL A	B	C	D	ACFT
	Abnormal/Emergency									
	[ ] From a VFR Pattern from VFR Enroute								V	X
	From a Precision or Non-Precision App. (including the final approach segment)							X		X
	Of the following:									
	1. Rejected Landing							X		X
	2. Landing with Trim Malfunction							X		X
	3. Landing with 50% available powerplants with the loss of power on one side of the airplane (Center engine and 1 outboard engine failed on 3 engine airplanes) (ME)	For 2-Engine Airplanes						X		X
		For Airplanes With 3 or More Engines				X			X	
	4. Landing with 1 powerplant inop for aircraft with 3 or more engines (ME)							X		X
	5. With Flap/Slat Malfunction							X		X
	6. With loss of Flight Control Power (if applicable)							X		X
	Others									

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
DURING ANY PHASE	Normal/Alternate									
	Airframe and Powerplant Systems Operations									
	Airconditioning									
	Antiicing/Deicing									
	Auxiliary Powerplant									
	Communications									
	Electrical									
	Flaps									
	Flight Controls									
	Fuel and Oil									
	Hydraulic									
	Landing Gear									
	Pneumatic									
	Powerplant									
	Pressurization									
	Others									

FYI: When these systems are operated in conjunction with a particular event, the level of required flight training device or flight simulator is as required for that particular event. When an isolated system is operated, it may be done using any approved flight training equipment.

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
DURING ANY PHASE	Normal/Alternate									
	Flight Management & Guidance Systems									
	Airborne Radar									
	Auto. Landing Aids									
	Autopilot									
	Collision Avoidance System									
	Flight Data Displays									
	Flight Management Computers									
	Navigation Systems									
	Stall Warning/ Avoidance									
	Stability & Control Augmentation									
	Windshear Avoidance Equipment									
	Others									
	Airborne Procedures									
	Holding		X							X
	Others									

FYI: When these systems are operated in conjunction with a particular event, the level of required flight training device or flight simulator is as required for that particular event. When an isolated system is operated, it may be done using any approved flight training equipment.

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

FLIGHT PHASE	EVENT	TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
		4	5	6	7	A	B	C	D	
DURING ANY PHASE	Abnormal/Emergency									
	Airframe and Powerplant Systems Operations									
	Airconditioning									
	Antiicing/Deicing									
	Auxiliary Powerplant									
	Communications									
	Electrical									
	Fire in any System or Location									
	Flaps									
	Flight Controls									
	Fuel and Oil									
	Hydraulic									
	Landing Gear									
	Pneumatic									
	Powerplant									
	Pressurization									
	Others									

FYI: When these systems are operated in conjunction with a particular event, the level of required flight training device or flight simulator is as required for that particular event. When an isolated system is operated, it may be done using any approved flight training equipment.

FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
DURING ANY PHASE	**Abnormal/Emergency**									
	Flight Management & Guidance Systems									
	Airborne Radar									
	Auto. Landing Aids									
	Autopilot									
	Collision Avoidance System									
	Flight Data Displays									
	Flight Management Computers									
	Navigation Systems									
	Stall Warning/ Avoidance									
	Stability & Control Augmentation									
	Windshear Avoidance Equipment									
	Others									
	Airborne Procedures									
	Air Hazard Avoidance						X	—	—	X
	Windshear/Microburst			X*	X*	X	—	—	X	
	Others									

FYI: When these systems are operated in conjunction with a particular event, the level of required flight training device or flight simulator is as required for that particular event. When an isolated system is operated, it may be done using any approved flight training equipment.

X* Note: For those operators required to comply with Part 121, windshear/microburst events must be accomplished in a Flight Simulator.

SPECIAL PURPOSE
ADDITIONAL FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
TAKEOFF	(Normal/Alternate) Short Field							X	Q	X
	Soft Field								X	X
	Obstacle Clearance							X	Q	X
	Open									
	(Abnormal/Emergency) Rejected Short Field (Max Breaking)					X				X
	Open									

SPECIAL PURPOSE
ADDITIONAL FLIGHT QUALIFICATION EVENTS
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
VISUAL SEGMENT AND LANDING	(Normal/Alternate) Short Field								X	X
	Soft Field								X	X
	Obstacle Clearance							X		X
	Open									
	(Abnormal/Emergency) Rejected Obstacle Clearance					X				X
	Open									

FLIGHT QUALIFICATION
WATER OPERATIONS EVENTS
PILOTS
AMPHIBIOUS AND SEAPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
SURFACE OPERATION	(Normal/Alternate) Taxiing								X	X
	Step Taxiing								X	X
	Sailing								X	X
	Docking/Mooring								X	X
	Ramp Operations								X	X
	Open									
	(Abnormal/Emergency) Rough Water Taxi								X	X
	Taxiing with one Power Plant Inoperative (ME)								X	X
	Emergency Evacuation				X					X
	Open									

FLIGHT QUALIFICATION
WATER OPERATIONS EVENTS
PILOTS
AMPHIBIOUS AND SEAPLANES

FLIGHT PHASE	EVENT	TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
		4	5	6	7	A	B	C	D	
TAKEOFF	(Normal/Alternate)									
	Normal								X——	——X
	Crosswind								X——	——X
	Obstacle Clearance								X——	——X
	Rough Water								X——	——X
	Glassy Water								X——	——X
	Open									
	(Abnormal/Emergency)									
	Crosswind (normal in an aircraft if no crosswind exists) with failure of the most critical powerplant at the most critical point along the takeoff path which requires a decision to discontinue the takeoff. {ME}								X——	——X
	Rejected Obstacle Clearance							X——	——	——X
	Open									

FLIGHT QUALIFICATION
WATER OPERATIONS EVENTS
PILOTS
AMPHIBIOUS AND SEAPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
VISUAL SEGMENT AND LANDING	(Normal/Alternate) Crosswind								X	X
	Obstacle Clearance								X	X
	Glassy Water								X	X
	Rough Water								X	X
	Open									
	Crosswind (normal in an aircraft if no crosswind exists) with most critical powerplant inoperative. {ME}								X	X
	Rejected Obstacle Clearance								X	X
	Open									

FLIGHT QUALIFICATION EVENTS
FLIGHT ENGINEERS
TRANSPORT CATEGORY AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
PREPARATION	Airplane Preflight * Logbook * Safety Checks * Cabin/Interior * Exterior Walkaround * Deicing * Servicing	Exterior walkaround can be done using approved pictorial displays								X
GROUND OPERATION	Performance Data * TOLD * Airport Analysis * Weight & Balance	X								X
	Use of Checklist * Panel Setup			X						X
	Starting * Normal * Abnormal - External Pwr - External Air - Battery Only	X								X
	Communications * Station Procedures * ACARS		X							X
	Taxi		X							X
TAKEOFF	Normal			M	M	X				X
	Rejected * Brake Energy			M	M	X				X
	Engine Failure/Fire		X							X
	Fuel Jettison			X						X
	Emergency Return			X						X

FLIGHT QUALIFICATION EVENTS
FLIGHT ENGINEERS
TRANSPORT CATEGORY AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
CLIMB	Normal * Power		X							X
	One Engine Inop.		X							X
	Fuel Management	X								X
	Pressurization * Manual * Automatic	X								X
EN ROUTE	Cruise Power		X							X
	Step Climb		X							X
	Fuel Management		X							X
	High Altitude Performance		X							X
	Powerplant Shutdown and Restart		X							X
DESCENT	Normal		X							X
	Maximum Rate			M	M	X				X
APPROACH	Landing Data	X								X
	Landing Gear Malfunctions			M	M	X				X
	Flap/Spoiler Malfunctions			M	M	X				X
	Approach Monitoring		X							X
LANDING	Normal			M	M	X				X
	With Landing Gear Malfunction			M	M	X				X
	Emergency Evacuation			X						X

FLIGHT INSTRUCTION/EVALUATION
FLIGHT ENGINEERS
TRANSPORT CATEGORY AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
DURING ANY PHASE Normal, Abnormal, Alternate, and Emergency Procedures	Fires			X						X
	Smoke Control			X						X
	Powerplant Failure			X						X
	Pressurization		X							X
	Pneumatic	X								X
	Air Conditioning	X								X
	Fuel and Oil	X								X
	Electrical		X							X
	Hydraulic		X							X
	Flight Control			X						X
	Anti Icing & Deicing		X							X
	Cabin Equipment									X

BILLING CODE 4910-13-C

Appendix D—Program Audit Database Table of Contents

The following is the Program Audit Database Table of Contents. Descriptions and guidance for creating and maintaining the listed documents are in Chapter 7 of this AC.

APPENDIX D—PROGRAM AUDIT DATA BASE TABLE OF CONTENTS APPROVAL PHASE RELATIONSHIPS AND APPROVAL AUTHORITY

Document Title With Sections	Approval Phases					Approval Authority
	I	II	III	IV	V	
Program Audit Data Base Master List	D	U	U	M	M	AFS-210
Application Cover Letter	D					
Transition Plan	D	U	M	O		AFS-210
Supporting Data Package	D	U	U	M	M	AFS-210
Supporting Task Analysis		D/O	M	M	M	AFS-210
Qualification Standards		D/O	M	M	M	AFS-210
Curriculum Development Methodology		D/O	M	M	M	AFS-210
AQP Curriculum		D	O/M	O/M	O/M	AFS-210/POI
AQP Training Resource Requirements		D	O	M	M	AFS-210/POI
AQP Implementation and Operations Plan		D	O/M	O/M	O/M	AFS-210/POI/NSPM
1. Curriculum Schedule		D	O/M	O/M	O/M	AFS-210/POI
2. Transition Plan	D	U	O	O		AFS-210
3. Equipment Test Plan		D	O			AFS-210/NSPM
4. Formative Evaluation Plan		D	O			AFS-210/POI/NSPM
5. Summative Evaluation Plan		D	U	O		AFS-210/POI
6. AQP Maintenance Plan		D	U	O	O	AFS-210/POI
7. ADP Equipment Plan		D	U	O	O	AFS-210
8. Data Collection Procedures		D	U/O	O	O	AFS-210
AQP Implementation and Operations Plan		D	O/M	O/M	O/M	AFS-210/POI/NSPM
1. Curriculum Schedule		D	O/M	O/M	O/M	AFS-210/POI
2. Transition Plan	D	U	O	O		AFS-210
3. Equipment Test Plan		D	O			AFS-210/NSPM
4. Formative Evaluation Plan		D	O			AFS-210/POI/NSPM
5. Summative Evaluation Plan		D	U	O		AFS-210/POI
6. AQP Maintenance Plan		D	U	O	O	AFS-210/POI
7. ADP Equipment Plan		D	U	O	O	AFS-210
8. Data Collection Procedures		D	U/O	O	O	AFS-210

D=Develop.
U=Update.
M=Maintenance.
O=Operate.
AFS 210=Manager, Air Carrier Training Branch.
POI=Principal Opertions Inspector.
NSPM=National Simulator Program Manager.
Note: Data on security and hazardous materials will be reviewed by the Air Carrier Traning Branch, Office of Civil Aviation Security.

Appendix E—Task/Subtask Analysis Worksheets

The following worksheets may assist an applicant to accomplish and document the task/subtask analysis and proficiency objective development described in chapter 7 of this AC.

APPENDIX E—PROGRAM AUDIT DATA BASE TABLE OF CONTENTS APPROVAL PHASE RELATIONSHIPS AND APPROVAL AUTHORITY

Document Title With Sections	Approval Phases					Approval Authority
	I	II	III	IV	V	
Program Audity Data Base Master List	D	U	U	M	M	AFS-210
Application Cover Letter	D					
Transition Plan	D	U	M	O		AFS-210
Supporting Data Package	D	U	U	M	M	AFS-210
Supporting Task Analysis		D/O	M	M	M	AFS-210
Qualification Standards		D/O	M	M	M	AFS-210
Curriculum Development Methodology		D/O	M	M	M	AFS-210
AQP Curriculum		D	O/M	O/M	O/M	AFS-210/POI
AQP Training Resource Requirements		D	O	M	M	AFS-210/POI
AQP Implementation and Operations Plan		D	O/M	O/M	O/M	AFS-210/POI/NSPM
1. Curriculum Schedule		D	O/M	O/M	O/M	AFS-210/POI
2. Transition Plan	D	U	O	O		AFS-210
3. Equipment Test Plan	D	O				AFS-210/NSPM
4. Formative Evaluation Plan		D	O			AFS-210/POI/NSPM
5. Summative Evaluation Plan		D	U	O		AFS-210/POI
6. AQP Maintenance Plan		D	U	O	O	AFS-210/POI
7. ADP Equipment Plan		D	U	O	O	AFS-210
8. Data Collection Procedures		D	U/O	O	O	AFS-210
9. Courseware and Equipment Test Document Catalog			D	M	M	AFS-210/POI/NSPM
AQP Implementation and Operation Plan Results			O	O	O	AFS-210/POI
1. Formative Evaluation of Courseware/Curriculum			O			AFS-210/POI

APPENDIX E—PROGRAM AUDIT DATA BASE TABLE OF CONTENTS APPROVAL PHASE RELATIONSHIPS AND APPROVAL AUTHORITY—Continued

Document Title With Sections	Approval Phases					Approval Authority
	I	II	III	IV	V	
2. Summative Evaluation Results				O		AFS-210/POI
3. Maintenance Plan Results				O	O	AFS-210/POI
4. Equipment Test Results			O	O		AFS-210/POI/NSPM
AQP Continuing Program Evaluation Results					O	AFS-210/POI

D=Develop.
U=Update.
M=Maintain.
O=Oper.

Appendix F—Flight Training Equipment Descriptions

A. Level 4—Flight Training Device

(1) Purpose. To permit learning, development, and practice of skills and cockpit procedures necessary to understand and operate the integrated systems of a specified aircraft.

(2) Functional Description. A level 4 training device has the following characteristics and components:

- A replica of the flight deck panels, switches, controls, and instruments in proper relationship to represent the aircraft for which training is to be accomplished.
- Systems indications which respond appropriately to switches and controls which are required to be installed for the training or evaluation to be accomplished.
- Air/ground logic, not simulated aerodynamic capabilities are required.

B. Level 5—Flight Training Device

(1) Purpose. To permit learning, development, and practice of skills, cockpit procedures, and instrument flight procedures necessary to understand and operate the integrated systems of a specific aircraft in typical flight operations in real time.

(2) Functional Description. A level 5 training device has the following characteristics and components:

- A replica of the flight deck panels, switches, controls, and instruments in proper relationship to represent the aircraft for which training is to be accomplished.
- Systems indications which respond appropriately to switches and controls which are required to be installed for the training or evaluation to be accomplished.
- Simulated aerodynamic capabilities representative of the make, model, and series of the aircraft (or variant).
- Functional flight and navigational controls, displays, and instrumentation.
- Control forces and control travel of sufficient precision to manually fly an instrument approach.

C. Level 6—Flight Training Device

(1) Purpose

- To permit learning, development, and practice of skills in cockpit procedures, instrument flight procedures, certain symmetrical maneuvers and flight characteristics necessary to operate the integrated systems of a specific aircraft in typical flight operations.
- To permit the use of previously approved nonvisual simulators and the continued use of advanced training devices (ATD) for those part 135 operators approved to use them.

(2) Functional Description. A level 6 training device has the following characteristics and components:

- Systems indications which respond appropriately to switches and controls which are required to be installed.
- Replication of the cockpit of the aircraft for which training is to be accomplished.
- Simulated aerodynamic capabilities which closely represent the specific aircraft in ground and flight operations.
- Functional flight and navigational controls, displays, and instrumentation.
- Control forces and control travel which correspond to the aircraft.
- Instructor controls.

(Note: Nonvisual Simulators Are Categorized With Level 6 Training Devices.)

D. Level 7—Flight Training Device

(1) Purpose. To permit learning, development, and practice of skills in cockpit procedures, instrument flight procedures and maneuvers, and flight characteristics necessary to operate the integrated systems of a specific aircraft in typical flight operations.

(2) Functional Description. A level 7 training device has the following characteristics and components:

- Systems representations, switches, and controls which are required by the type design of the aircraft and by the approved training program.
- Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.
- Full-scale replication of the cockpit of the aircraft being simulated.
- Correct simulation of the aerodynamic and ground dynamic characteristics of the aircraft being simulated.
- Correct simulation of the effects of selected environmental conditions which the simulated aircraft might encounter.
- Control forces, dynamics, and travel which correspond to the aircraft.
- Instructor controls and seat.

E. Level a Flight Simulator

(1) Purpose. To permit development and practice of the necessary skills for accomplishment of flight operational tasks to a prescribed standard of airman competency in a specific aircraft and duty position. Level A flight simulators may be used for specified pilot recency of experience requirements and specified flight operational task training requirements.

(Note: Level A Flight Simulators Comply With The Technical Standards Specified For Basic (Visual) Simulators in AC 120-40, as Amended.)

(2) *Functional Description.* Level A flight simulators have the following characteristics and components:

- Systems representations, switches, and controls which are required by the type design of the aircraft and by the user's approved training program.
- Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.
- Full-scale replication of the cockpit of the aircraft being simulated.
- Correct simulation of the aerodynamic characteristics of the aircraft being simulated.
- Correct simulation of the effects of selected environmental conditions which the simulated aircraft might encounter.
- Control forces and travel which correspond to the aircraft.
- Instructor controls and seat.
- At least a night visual system with at least a 45 degree horizontal by 30 degree vertical field of view for each pilot station.
- A motion system with at least 3 degrees of freedom.

F. Level B Flight Simulator

(1) Purpose. To permit development and practice of the necessary skills for accomplishment of flight operational tasks to a prescribed standard of airman competency in a specific aircraft and duty position. Level B flight simulators may be used for pilot recency of experience requirements and specified flight operational task training requirements.

(Note: Level B Flight Simulators Comply With the Technical Standards Specified for Phase I Simulators in part 121, appendix H and AC 120-40, as Amended.)

(2) Functional Requirements. Level B flight simulators have the following characteristics and components:

- Systems representations, switches, and controls which are required by the type design of the aircraft and by the user's approved training program.

• Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.

• Full-scale replication of the cockpit of the aircraft being simulated.

• Correct simulation of the aerodynamic characteristics including ground effect, and ground dynamic characteristics of the aircraft being simulated.

• Correct simulation of the effects of selected environmental conditions which the simulated aircraft might encounter.

• Control forces and travel which correspond to the aircraft.

• Instructor controls and seat.

• At least a night visual system with at least a 45 degree horizontal by 30 degree vertical field of view for each pilot station.

• A motion system with at least 3 degrees of freedom.

G. Level C Flight Simulator

(1) Purpose. To permit development and practice of the necessary skills for accomplishment of flight operational tasks to a prescribed standard of airman competency in a specific aircraft and duty position. Level C flight simulators may be used for pilot recency of experience requirements and specified flight operational task training.

(Note: Level C Flight Simulators Comply With the Technical Standards Specified for "Phase II Simulators" in Part 121, Appendix H and AC 120-40, as Amended.)

(2) Functional Description. Level C flight simulators have at least the following characteristics and components:

• Systems representations, switches, and controls which are required by the type design of the aircraft and by the user's approved training program.

• Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.

• Full-scale replication of the cockpit of the aircraft being simulated.

• Correct simulation of the aerodynamic characteristics including ground effect, and ground dynamic characteristics of the aircraft being simulated.

• Correct simulation of the effects of selected environmental conditions which the simulated aircraft might encounter.

• Control forces, dynamics, and travel which correspond to the aircraft.

• Instructor controls and seat.

• At least a night and dusk visual system with at least a 75 degree horizontal by 30 degree vertical field of view for each pilot station.

• A motion system with at least 6 degrees of freedom.

H. Level D Flight Simulator

(1) Purpose. To permit development and practice of the necessary skills for the accomplishment of flight operational tasks to a prescribed standard of airman competency in a specific aircraft and duty position. Level D flight simulators may be used for all flight operational task training except for static aircraft training.

(Note: Level D Flight Simulators Comply With the Technical Standards Specified for Phase III Simulators: in part 121, appendix H and AC 120-40, as Amended)

(2) Functional Description. Level D flight simulators have the following characteristics and components:

• Systems representations, switches, and controls which are required by the type design of the aircraft and by the user's approved training program.

• Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.

• Full-scale replication of the cockpit of the aircraft being simulated.

• Correct simulation of the aerodynamic characteristics including ground effect, and ground dynamic characteristics of the aircraft being simulated.

• Correct simulation of selected environmentally affected aerodynamic and ground dynamic characteristics of the aircraft being simulated considering the full range of its flight envelope in all approved configurations.

• Correct any realistic simulation of the effects of environmental conditions which the aircraft might encounter.

• Control forces, dynamic, and travel which correspond to the aircraft.

• Instruction controls and seat.

• A daylight, dusk, and night visual system with at least a 75 degree horizontal by 30 degree vertical field of view for each pilot station.

• A motion system with at least 6 degrees of freedom.

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federal register

Tuesday,
October 2, 1990

Part III

Department of Justice

Bureau of Prisons

28 CFR Part 551

Control, Custody, Care, Treatment and Instruction of Inmates; Grooming; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 551

Control, Custody, Care, Treatment and Instruction of Inmates; Grooming

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document the Bureau of Prisons is amending its rule on Grooming. The amendment specifies that inmates may not wear wigs or artificial hairpieces, unless medical authorization to do so is approved by the Warden. Previous Bureau policy specified that a female inmate may wear a wig or hairpiece, while a male inmate may not wear an artificial hairpiece. The intent of this proposal is to provide for the security, good order, and discipline of the institution, and to apply this provision equally to male and female inmates.

EFFECTIVE DATE: November 1, 1990.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC room 741, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Grooming. A proposed rule on this subject was published in the **Federal Register** February 21, 1990 (55 FR 6181). Two comments were received on this proposal. One commenter expressed agreement with the intent of treating male and female inmates equally, but objected to the proposed rule as drafted, stating that the use of wigs with medical authorization posed security concerns to an institution. The other commenter also objected to the proposal, stating that the utilization of wigs or artificial hairpieces by male inmates in a maximum security institution with medical authorization only was totally contrary to institution security. As stated in the **Federal Register**, the intent of the proposal was to provide for the security, good order, and discipline of the institution, and to apply the provision equally to male and female inmates. In publishing this final rule, the Bureau is making a change in wording which clarifies the provision for security, good order, and discipline of the institution, and is consistent with the intent of the published proposed rule. As adopted, § 551.3 now specifies that inmates may not wear wigs or artificial hairpieces, unless medical authorization to do so is approved by the Warden. The prohibition on wearing wigs or artificial hairpieces applies equally to both male and female inmates, which was the intent of the published proposed rule. Section 551.1 allows for the consideration of security, good order, and discipline of the institution in this policy; § 551.5 allows the Warden to impose restrictions or exceptions for documented medical reasons. As revised, § 551.3 therefore allows the Warden to exercise his or her existing discretion in the approval of medical authorization to wear wigs or artificial hairpieces.

In adopting the proposed rule as final with the above changes, the Bureau has made no change in the intent of the published proposed rule. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 551

Prisoners.

Dated: September 21, 1990.

J. Michael Quinlan,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), part 551 in subchapter C of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 551—MISCELLANEOUS

1. The authority citation for 28 CFR part 551 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 4161–4166 (Repealed as to conduct occurring on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; Pub. L. 99–500 (sec. 209); 28 CFR 0.95–0.99.

2. Section 551.3 is revised to read as follows:

§ 551.3 Hairpieces.

Inmates may not wear wigs or artificial hairpieces, unless medical authorization to do so is approved by the Warden.

[FR Doc. 90–23250 Filed 10–1–90; 8:45 am]

BILLING CODE 4410–05–M

federal register

Tuesday,
October 2, 1990

Part IV

Small Business Administration

13 CFR Part 107

Small Business Investment Companies; Management and Private Capital Requirements; Interim Final Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies; Management and Private Capital Requirements

AGENCY: Small Business Administration.

ACTION: Interim final rule.

SUMMARY: SBA is publishing this interim final rule containing several amendments to the regulations governing the Small Business Investment Company (SBIC) program which are presently in force. These regulatory changes are designed to increase minimum capital requirements for Small Business Investment Companies (SBICs) and Specialized Small Business Investment Companies (SSBICs) and to ensure the objectivity and impartiality of the valuation of investments made by SBICs and SSBICs. They are designed to protect SBA's exposure with respect to government funds it makes available to such entities (Leverage). They take effect immediately upon publication with respect to new applicants for Licenses to act as SBICs or SSBICs and prospectively with respect to applications in-house on the effective date and Licensees which have been licensed as of the effective date.

DATES: These regulations are effective October 2, 1990. For existent Licensees and for Licensees which become licensed based upon applications in-house prior to the effective date of these regulations, these regulatory requirements will take effect 6 months from the date of publication in order to afford an adequate opportunity for compliance. For applicants which file applications subsequent to the effective date of this regulation, the regulation will be binding upon publication. Comments will be accepted until November 1, 1990.

ADDRESSES: Written comments should be addressed to Bernard Kulik, Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Room 808, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Joseph L. Newell, Director, Office of Investment, Telephone (202) 653–6584.

SUPPLEMENTARY INFORMATION: On June 29, 1990, the Small Business Administration announced by Notice a 90 day moratorium on the approval for new licenses for Small Business Investment Companies (SBICs) licensed pursuant to section 301(c) of the Small Business Investment Act and Specialized Small Business Investment Companies (SSBICs) licensed pursuant to section 301(d) of the same Act. (55 FR 26803). The Notice indicated that SBA would use the moratorium period to review criteria under which SBIC and SSBIC licenses are issued as well as other program regulations. While that review is still ongoing, SBA has determined that there is an immediate need to implement new regulatory requirements in two areas in order to permit uninterrupted program operations after the expiration of the moratorium while satisfying SBA's need to reduce its fiscal vulnerability. These two areas involve the requirements for minimum private capital invested in a SBIC or SSBIC by its owners and the composition of the bodies which perform the valuations of the investments of SBICs and SSBICs.

With respect to the former area of concern, section 302 of the Small Business Investment Act prescribes minimum capital requirements for SBICs and Special SBICs. This section has been implemented by regulations found at 13 CFR 101(d)(1). Presently the minimum capital requirement for SBICs and SSBICs is $1,000,000. SBA is not satisfied that this requirement is sufficient to secure its provision of future funding to SBICs and SSBICs. Thus it is hereby raising the minimum capital requirement by amendment to § 107.101(d)(1) to $3,000,000 for SBICs and $2,000,000 for SSBICs. This requirement will apply to new applicants to either program immediately upon publication in the **Federal Register**. However, in order to avoid undue hardship, all applications in-house prior to the effective date of this regulation will be judged under the minimum capital regulatory requirement in effect prior to the effective date. In addition any licensed SBIC or SSBIC, or applicant which has been licensed under prior regulatory requirements may continue to retain minimum capital in the amount required by regulations in effect prior to the effective date of this amendment without violating this amendment. However, any such SBIC or SSBIC is required by the terms of this regulation to meet the new applicable minimum capital requirement by one year from the effective date of this amendment in order to be eligible thereafter for Leverage pursuant to SBA's regulations.

With respect to the latter area of concern, SBA recognizes that under applicable standards SBICs and SSBICs are responsible for valuing their investments. SBA is desirous of ensuring that the valuation of investments made by SBICs and SSBICs is accurately and impartially determined by responsible persons within the companies. In order to ensure this to the maximum extent possible SBA is hereby imposing new requirements regarding the composition of boards of directors and valuation committees which generally perform such valuations.

Thus, in the case of a Corporate SBIC or SSBIC a minimum 5 member Board of Directors will be required and no less than 40% of its membership will be required to be independent or not otherwise affiliated with the Licensee. In the case of a non-corporate SBIC or SSBIC with a Corporate General Partner, the Board of Directors of the Corporate General Partner will be required to have at least 5 members, 40% of whom are unaffiliated with or not otherwise related to the Licensee or the Corporate General Partner. In the case of a Partnership SBIC which does not have a Corporate General Partner, a valuation committee consisting of at least 5 members, 40% of whom are independent of and not otherwise affiliated with the Partnership will be required. For existent Licensees and for Licensees which become licensed based upon applications in-house prior to the effective date of these regulations, these regulatory requirements will take effect 6 months from the date of publication in order to afford an adequate opportunity for compliance. For applicants which file applications subsequent to the effective date of this regulation, the regulation will be binding upon publication.

Compliance With Executive Orders 12291 and 12612, and the Regulatory Flexibility and Paperwork Reduction Acts

Executive Order 12291 and the Regulatory Flexibility Act

SBA has determined that these regulations, taken as a whole, will constitute a major rule for purposes of Executive Order 12291, because they are likely to have an annual impact on the national economy of $100 million or more. In this regard, these regulations may have a significant economic impact on a substantial number of small entities. Pursuant to E.O. 12291 and 5 U.S.C. 603, SBA offers the following regulatory flexibility and economic impact analysis.

1. This action, taken as a whole, is designed to reduce losses being sustained by SBICs and by SBA as their guarantor.

2. The legal basis for these regulations is section 308(c) of the Small Business Investment Act, 15 U.S.C. 687(c).

3. These rules apply to all 390 currently operating Licensees, including 134 SSBICs.

4. The potential benefits of these regulations have been set forth in the respective discussions of these proposals above, under Supplementary Information.

5. The potential costs of these regulations cannot be quantified or even estimated, as for the most part these regulatory proposals would only prevent transactions from being consumated, such as high-risk leveraging of Licensees at the expense of SBA as guarantor.

6. There are no federal rules which duplicate, overlap or conflict with these rules.

7. SBA is not aware of regulatory alternatives that could achieve the same objectives at lower cost, as explained above under No. 5.

Paperwork Reduction Act

For purposes of the Paperwork Reduction Act, 44 U.S.C., ch. 35 we hereby certify that these regulations, will impose no new record-keeping requirements.

SBA hereby finds that notice and public comment prior to the effective date of these regulations is impracticable. These regulations respond to an immediate need to ensure that the disposition of government funds is adequately protected. These regulations are, therefore, effective upon publication. However, SBA is soliciting public comments on them and will consider those comments in the development of final rules on the matter.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs/business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, part 107 of title 13, Code of Federal Regulations, is amended as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 continues to read as follows:

Authority: Title III of the Small Business Investment Act, 15 U.S.C. 681 *et seq.*, as amended, Pub. L. 100–590 and Pub. L. 101–162. 15 U.S.C. 687(c); 15 U.S.C. 683, as amended by Pub. L. 101–162; 15 U.S.C. 687(d); 15 U.S.C. 687g; 15 U.S.C. 687b; 15 U.S.C. 687m, as amended by Pub. L. 100–590.

§ 107.3 [Amended]

2. in § 107.3, the term "Licensee" is amended by adding after the first sentence a new sentence to read as follows: "In order to be eligible for Leverage pursuant to these regulations, all Corporate Licensees (including Corporate section 301(d) Licensees) shall have at least a 5 member board of directors of which at least 40% of the members are independent of and not otherwise affiliated with the Licensee; *Provided however*, That this requirement shall not immediately apply to any Licensee licensed before the effective date of this requirement; nor to any license applicant whose application was on file with SBA before the effective date of this requirement, nor with respect to any License granted on the basis of such application. Any such Licensee or applicant shall have six months from the effective date of this requiement to comply with this requirement."

§ 107.4 [Amended]

3. Section 107.4(b)(2) is amended by adding the following two sentences at the end to read as follows: "In order to be eligible for Leverage pursuant to these regulations, a Limited Partnership SBIC with a Corporate General Partner shall insure that the Corporate General Partner shall have at least a 5 member board of directors of which at least 40% of the members are independent of and not otherwise affiliated with the Unincorporated Licensee or the Corporate General Partner; *Provided, however*, That this requirement shall not immediately apply to any Licensee licensed before the effective date of this requirement; nor to any license applicant whose application was on file with SBA before the effective date of this requirement, nor with respect to any license granted on the basis of such application. Any such Licensee or applicant shall have six months from the effective date of this regulation to comply with this requirement."

* * * * *

§ 107.4 [Amended]

4. Section 107.4(b)(3) is amended by removing the word "and" before (iii) and by removing the period and adding "; and" after the word "succession", and by adding a new paragraph (b)(3)(iv) to read as follows: "(iv) In order to be eligible for Leverage pursuant to these regulations, if the partnership does not have a Corporate General Partner it shall have a valuation committee of at least 5 members, at lest 40% of whom are independent and not otherwise affiliated with the partnership, *Provided, however*, That this requirement shall not immediately apply to any Licensee licensed before the effective date of this requirement; nor to any license applicant whose application was on file with SBA before the effective date of this requirement; nor with respect to any license granted on the basis of such application. Any such Licensee or applicant shall have six months from the effective date of this requirement to comply with this requirement."

5. Section 107.101, is amended by revising the introductory text to paragraph (d) and paragraph (d)(1) to read as follows:

§ 107.101 Operational requirements.

* * * * *

(d) *Minimum capital.* Every Licensee and section 301(d) Licensee shall have:

(1) In the case of a Licensee, Private Capital of at least $3,000,000 *Provided however*, That the requirement for $3,000,000 Private Capital shall not apply with respect to any Licensee licensed before the effective date of this regulation; nor with respect to any license application on file with SBA before the effective date of this regulation, nor with respect to any license granted on the basis of such application. Any Licensee or applicant which has become licensed before the effective date of this regulation or has filed an application before the effective date of this regulation is permitted to have such Private Capital as is required by regulation in effect prior to the effective date of this regulation. *Provided further, however*; that any such Licensee or applicant, one year from the effective date of this regulation will be required to have $3,000,000 Private Capital in order to be eligible for Leverage pursuant to these regulations. In the case of a section 301(d) Licensee, Private Capital of at least $2,000,000 *Provided however*, That the requirement for $2,000,000 Private Capital shall not apply with respect to any section 301(d) Licensee licensed before the effective date of this regulation; nor with respect to any license application on file with SBA before the effective date of this regulation, nor with respect to any license granted on the basis of such application. Any such section 301(d) Licensee or license applicant which has become licensed before the effective date of this regulation or has filed an application before the effective date of this regulation is permitted to have such Private Capital as is required by regulation in effect prior to the effective date of this regulation. *Provided further, however*; That any such section 301(d) Licensee or applicant, one year from the effective date of this regulation will be required to have $2,000,000 Private Capital in order to be eligible for Leverage pursuant to these regulations.

* * * * *

Dated: September 20, 1990.

Susan Engeleiter,

Administrator.

[FR Doc. 90-23239 Filed 9-27-90; 1:59 pm]

BILLING CODE 8025-01-M

Federal Register

Tuesday
October 2 1990

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Restriction on Certain Flights from the United States to the Republic of the Philippines; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26027; Special Federal Aviation Regulation (SFAR) No. 57]

Restriction on Certain Flights from the United States to the Republic of the Philippines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation, (DOT).

ACTION: Final rule; amendment.

SUMMARY: This action extends the expiration date of a Special Federal Aviation Regulation (SFAR) prohibiting the transportation by aircraft of the remains of Ferdinand Marcos from the territory of the United States to the Republic of the Philippines or to any intermediate destination on a trip whose ultimate destination is the Republic of the Philippines. This action is taken to prevent an undue hazard to the aircraft that would be engaged in such transportation, as well as to persons involved in the flight, in consideration of measures taken by the Government of the Republic of the Philippines to prevent the landing of the aircraft in the Republic of the Philippines. This amendment extends the expiration date of the SFAR from October 1, 1990, to October 1, 1991.

DATES: *Effective date:* October 1, 1990. *Expiration date:* SFAR No. 57 expires on October 1, 1991.

FOR FURTHER INFORMATION CONTACT: Gregory S. Walden, Chief Counsel, Office of the Chief Counsel, AGC–1, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267–3222.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Department of Transportation, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

Background

The Federal Aviation Administration (FAA) is responsible for the safety of flight in the United States and the safety of U.S.-registered aircraft throughout the world. Under section 103 of the Federal Aviation Act of 1958, as amended, the FAA is charged with the regulation of air commerce in a manner to best promote safety and fulfill the requirements of the national security.

On June 3, 1989, Robert M. Kimmitt, Undersecretary of State for Political Affairs, U.S. Department of State (DOS), sent a letter to Robert E. Whittington, Acting Administrator, Federal Aviation Administration, requesting that the FAA act to prohibit the return by transportation of the remains of former Philippines President Ferdinand Marcos to the Republic of the Philippines. The DOS letter noted that in a May 20, 1989, diplomatic note to the U.S. Embassy in Manila, the Government of the Republic of the Philippines restated its policy of opposition of the return of Mr. Marcos to the Philippines and stated that this policy applied in the event of Mr. Marcos' death. In a May 22 note to the U.S. Embassy in Manila, the Government of the Philippines states that it has taken action to prevent the return of the Marcos remains, by instructing all Philippine ports and aeronautical authorities not to give entry or landing clearance to vessels or aircraft bearing those remains. In a Memorandum Circular to commercial airlines and private aircraft operators dated May 26, the Philippine Government served notice of its prohibition on the entry of the Marcos remains into the Philippines. The contents of the May 22 note and the May 26 Memorandum Circular were consolidated in a revised Memorandum Circular issued by the Philippine Government on June 9, 1989.

It was the conclusion of DOS that the concerns of the Philippine Government were well-founded. The DOS concluded that the return of the Marcos remains to the Philippines was contrary to U.S. strategic and foreign policy interests and would create a danger to the aircraft and persons involved in the flight. The DOS was also concerned for the safety of any aircraft and crew involved in the return of the Marcos remains, as well as others who might be present at the actual or expected destination. The safety of these persons, who might include U.S. citizens, in the Philippines could be threatened by civil unrest in that country if the remains of Ferdinand Marcos were returned to the Philippines.

Upon the death of Mr. Marcos, the FAA, on September 28, 1989, based on the DOS findings and after its own independent evaluation, issued SFAR–57 to prohibit the transportation by aircraft of the remains of Ferdinand Marcos to the Republic of the Philippines or to any intermediate destination on a trip whose ultimate destination is the Republic of the Philippines (54 FR 40624; October 2, 1989). SFAR–57, which applies to all operations in the United States or any of its territories, expires on October 1, 1990.

On August 29, 1990, a diplomatic note restating the Philippine Government's opposition to the return of Mr. Marcos was sent to the U.S. Embassy in Manila. Attached to the August 29 note was a copy of an Advisory Memorandum, signed on July 16, 1990, advising all commercial airlines and private aircraft operators that the June 9, 1989, Memorandum Circular remained "in full force and effect."

On September 24, 1990, Undersecretary Kimmitt sent a letter to James B. Busey, Administrator, Federal Aviation Administration, requesting the FAA to extend the October 1, 1990, expiration date of SFAR–57. In the letter, the Undersecretary noted that DOS concludes that the concerns of the Philippine Government continue to be well-founded:

> After careful review of the current situation in the Philippines, the Department [of State] has concluded that our concerns expressed last year regarding the consequences for both U.S. foreign policy interests and aviation safety of a return of Mr. Marcos' body remain valid, and therefore that continued measures should be taken to prevent its return to the Philippines.

Copies of the August 29 Philippine diplomatic note and the September 14 DOS letter have been placed in the docket for this rulemaking.

Temporary Restrictions on Flights Leaving the United States

On the basis of the above, and the reasons set forth in the preamble to SFAR–57, I find that the circumstances which continue to exist in the Republic of the Philippines, including the possibility of civil unrest if the remains of former President Ferdinand Marcos are returned to that country, represent a hazard to any aircraft used for that purpose. Accordingly, these circumstances require action by the FAA in order to maintain the safety of flight and promote the national security interests of the United States. In order to prevent operation of an aircraft for the purpose of returning the Marcos remains to the Philippines, it is necessary for the FAA to amend SFAR–57 to extend the expiration date from October 1, 1990, to October 1, 1991.

Reason for Final Rule Without Notice; Effective Date of Final Rule

At the time of the adoption of SFAR–57, it was determined that any flight engaged in the transportation by aircraft of the remains of Ferdinand Marcos would present a potential hazard to flight. In the preamble to the rule, it was noted that the effectiveness of the rule may be extended. Because the circumstances in effect at the time of the adoption of SFAR–57 continue to exist, it is necessary to extend the expiration date of SFAR–57 to October 1, 1991, in order to maintain safety of flight. The FAA has received no comments on the rule in the year it has been in effect, and the solicitation of public comment at this time would not be likely to produce meaningful comments on the extended rule. For these reasons, and because this action would not impose any significant compliance burden on the public, I find that further notice and public procedure under 5 U.S.C. 553(b) are unnecessary and contrary to the public interest. In order to continue the rule in effect, I find that good cause exists for making this rule effective in fewer than 30 days after publication.

The rule contains an expiration date of October 1, 1991, but may be extended if circumstances in effect at that time warrant.

Regulatory Evaluation

The cost of this regulation is limited to the net revenue of a single flight between the United States—specifically Hawaii—and the Republic of the Philippines. However, such a flight would not necessarily be conducted for compensation by a commercial operator, or by an operator certificated by the United States. Benefits in the form of potential prevention of injury to persons and damage to property are not quantifiable and would occur outside the United States. For these reasons, the costs and benefits of the regulation considered under DOT Regulatory Policies and Procedures are minimal, and a further regulatory evaluation will not be conducted.

Conclusion

The FAA has determined that this action (1) is not a "major rule" under Executive Order 12291; and (2) is not considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Federalism Determination

The amendment set forth herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 91

Aviation safety, Republic of the Philippines.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 (as amended by Pub. L. 100–223), 1422 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq.*; E.O. 11541; Pub. L. 100–202; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Special Federal Aviation Regulation (SFAR) No. 57 is revised to read as follows:

SFAR No. 57—Restriction on Certain Flights from the United States to the Republic of the Philippines

1. *Applicability.* This rule applies to all operations in the United States.

2. *Special flight restrictions.* No person may operate an aircraft or initiate a flight carrying the remains of Ferdinand Marcos from the Hawaiian Islands or any other point in the United States to any point in the Republic of the Philippines or to any intermediate destination on a flight the ultimate destination of which is the Republic of the Philippines.

3. *Expiration.* This special rule expires October 1, 1991.

Issued in Washington, DC on September 27, 1990.

James B. Busey,

Administrator.

[FR Doc. 90–23339 Filed 9–28–90; 10:57 am]

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federal register

Tuesday
October 2, 1990

Part VI

The President

Federal Register
Vol. 55, No. 191
Tuesday, October 2, 1990

Presidential Documents

Title 3—

The President

Proclamation 6188 of September 28, 1990

National Job Skills Week, 1990

By the President of the United States of America

A Proclamation

Throughout most of the past decade, the United States has enjoyed remarkable, uninterrupted economic growth. This Nation's prosperity and its continued leadership in global economic affairs are, in large part, a tribute not only to the ingenuity and drive of American workers but also to the traditional strength of our academic institutions and the fundamental validity of free market principles.

As we approach the 21st century, however, the United States faces significant new challenges. Remaining a leader in the increasingly competitive global marketplace will require greater knowledge and improved skills among members of our labor force—knowledge and skills that will enable them to keep pace with continued advances in science and technology. A projected slowdown in work force growth and other demographic changes, such as the changing age profile of our work force and the many types of new work force entrants, also call for higher quality education in America and more effective job training.

A major Federal program to assist workers in acquiring the education and occupational skills they need is conducted under the Job Training Partnership Act (JTPA). Through the JTPA, private organizations and businesses work in concert with government agencies to provide training and employment opportunities for older, disadvantaged, and dislocated workers, as well as for those who previously have not been able to compete in the labor market because of lack of education or skills. By promoting higher levels of literacy, education, and skill among members of the Nation's work force, the JTPA is not only contributing to the personal fulfillment and success of individual participants, but also helping to keep our country strong and prosperous in a rapidly changing world.

To focus national attention on current and evolving work force needs, the Congress, by Senate Joint Resolution 333, has designated the week of September 30 through October 6, 1990, as "National Job Skills Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of September 30 through October 6, 1990, as National Job Skills Week. I call upon all Americans to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-23472
Filed 10-01-90; 11:03 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6189 of September 28, 1990

Minority Enterprise Development Week, 1990

By the President of the United States of America

A Proclamation

As we move toward the 21st century, the United States is challenged by the need to build a strong foundation for continued economic growth and prosperity. If we are to remain a leader in the global marketplace, we must increase our competitiveness through the production and delivery of high quality goods and services, and we must fully utilize the talents and ideas of all our workers. To do so, we must ensure that all Americans not only have the opportunity to participate in our free enterprise system, but also have the knowledge and skills needed to master ever more sophisticated technology in the workplace.

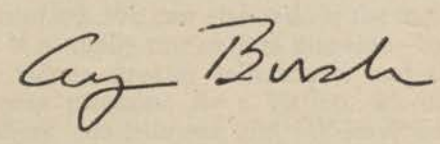
Achieving our goals for the 21st century will require an education system that is second to none, and it will require market-oriented government policies that sustain a climate conducive to business success. It will also require the best efforts of the private sector.

Minority business men and women have always demonstrated the kind of commitment to excellence that is vital to keeping America strong and competitive. Industrious and determined, these individuals have taken advantage of the opportunities available in our free enterprise system, helping to create jobs and contributing to the development of their communities. Time and again, minority entrepreneurs have demonstrated the power of individual initiative and private enterprise, reaffirming our conviction that freedom and opportunity are the key to success for individuals and nations.

During "Minority Enterprise Development Week," we recognize the outstanding achievements of the Nation's minority business men and women. The theme of this year's observance, "Quality Business Partners: America's Minority Entrepreneurs," calls due attention to the contributions that minority men and women make to our economic vitality. This week, as we salute the more than 1.5 million minority entrepreneurs in the United States, let us also renew our commitment to providing the education, training, and equality of opportunity that will enable more Americans to join them as valued partners in the economic life of our country.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of September 30 through October 6, 1990, as Minority Enterprise Development Week. I call upon the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 90-23473
Filed 10-01-90; 11:04 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6190 of September 28, 1990

Child Health Day, 1990

By the President of the United States of America

A Proclamation

On Child Health Day, we express our resolve, as individuals, families, and as a Nation, to ensure that every American child receives the best possible start in life—beginning with quality health care throughout pregnancy for expectant mothers and extending through each child's formative years. On this occasion and, indeed, throughout the year, thousands of health care providers, government officials, and other concerned Americans work together to achieve this goal, urging pregnant women to protect the lives of their unborn children through proper nutrition and prenatal care; encouraging parents to have their children immunized; and promoting education in child nutrition, safety, development, and hygiene.

The 1990 World Summit for Children dramatically illustrates that the concern for child health extends worldwide. This year, our observance of Child Health Day—an annual event in the United States since 1928—underscores our national commitment to build a better future for America's children.

Since the inception of Child Health Day in the first half of this century, we have not only worked to bring basic health care services to greater numbers of poor and underserved children but also focused increased attention on the prevention of childhood diseases and accidents. In recent years, we have also established more specialized services for children with particular health care needs, such as birth defects and chronic illnesses.

As we celebrate the advances we have made in promoting child health in the United States, we also do well to reflect on the work that remains to be done. During this observance of Child Health Day, we devote special attention to the unique problems and needs of adolescents.

Adolescence is an important, and sometimes difficult, time of transition. In addition to experiencing many physical and emotional changes, teenagers must cope with new peer pressures, increasing responsibilities, and the desire for greater independence. Most young Americans weather successfully the ups and downs of adolescence. Tragically, however, the future of far too many of our teens is being threatened by experimentation with drugs and alcohol, promiscuity, violence, and crime.

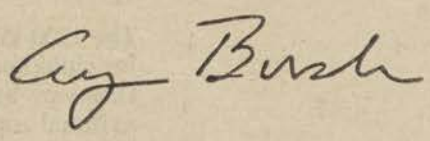
As individuals, families, and as a Nation, we must continue working to overcome the factors that can lead to physical and emotional health problems among adolescents—factors such as illiteracy, poverty, neglect, moral confusion, and the breakdown of family life. We can help America's teens to lead safer, healthier lives by teaching them—through word, deed, and example—the importance of sound nutrition and regular exercise and the dangers of such activities as smoking and drinking. We can also reduce the incidence of teen pregnancy—and the spread of sexually transmitted diseases—by helping our children to develop strong values, greater self-esteem, and the skills needed to overcome negative peer pressure. As a Nation, we must also rediscover the values of faithfulness, commitment, and self-sacrifice as they apply to marriage and family life.

While the government must not, and, indeed, cannot, assume the primary responsibility of parents in caring for their children, it can join health care providers and other private organizations in helping to promote the well-being of our Nation's teens. This year, as we observe Child Health Day, let us redouble our efforts to build a constructive partnership among parents, health care professionals, members of the clergy, educators, and public officials at all levels of government. What we do to promote the health and well-being of young Americans is an investment in their future and in the future of our entire country.

The Congress, by Joint Resolution approved May 18, 1928, as amended (36 U.S.C. 143), has called for the designation of the first Monday in October as "Child Health Day" and has authorized and requested the President to issue annually a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim Monday, October 1, 1990, as Child Health Day. I urge all Americans to join me in renewing our commitment to protecting the lives and health of all our Nation's children as we focus special attention on the needs of adolescents.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 90-23474
Filed 10-01-90; 11:05 a.m.]
Billing code 3195-01-M

Presidential Documents

Proclamation 6191 of September 28, 1990

General Pulaski Memorial Day, 1990

By the President of the United States of America

A Proclamation

Long before he gave his life for the sake of America's Independence, General Casimir Pulaski had demonstrated the depth of his devotion to the cause of liberty and human dignity. As a young count and patriot in Poland, the beloved land of his birth, Pulaski fought against tyranny and foreign domination with unrelenting courage and determination. Finally, when forced into exile, he chose to join our ancestors in their struggle for freedom and independence. Pulaski volunteered for the Continental Army, where he eventually became leader of his own cavalry unit.

On October 9, 1779, while leading a charge during the siege of Savannah, General Pulaski was mortally wounded. Two days later, this loyal friend of the American Revolution and tireless champion of freedom went to his eternal rest.

General Pulaski did not live to enjoy the triumph of the American Revolutionary War, but today we know that his sacrifices—and the sacrifices of all those who labored to support our fledgling Nation in its struggle for liberty—were not made in vain. Today, more than 200 years after his death, the United States continues to be blessed with freedom, peace, and prosperity. General Pulaski's fellow Poles have thrown off the oppressive weight of communist rule and have begun to enter the community of free nations.

Like many of his contemporaries, Casimir Pulaski knew that the hopes of freedom-loving peoples around the world were invested in our Nation's great experiment in self-government. In joining the American War for Independence, he affirmed a belief we cherish to this day: because liberty is the God-given right of all men, the cause of freedom is universal. When the rights to life, liberty, and the pursuit of happiness are secured anywhere, they are strengthened and reaffirmed everywhere.

This October 11, as we recall the death of General Casimir Pulaski, one of the great heroes of the Revolutionary War and first of many individuals of Polish descent to earn a place of honor in American history, let us also renew our commitment to the ideals for which he gave his life.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Thursday, October 11, 1990, as General Pulaski Memorial Day and direct the appropriate government officials to display the flag of the United States on all government buildings on that day. In addition, I encourage the people of the United States to commemorate this occasion as appropriate throughout the land.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-23475
Filed 10-01-90; 11:06 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12730 of September 30, 1990

Continuation of Export Control Regulations

By the authority vested in me as President by the Constitution and the laws of the United States of America, including but not limited to section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) (hereafter referred to as "the Act"),

I, GEORGE BUSH, President of the United States of America, find that the unrestricted access of foreign parties to U.S. goods, technology, and technical data and the existence of certain boycott practices of foreign nations, in light of the expiration of the Export Administration Act of 1979, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and hereby declare a national emergency with respect to that threat.

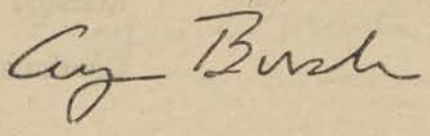
Accordingly, in order (a) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States; (b) to further significantly the foreign policy of the United States, including its policy with respect to cooperation by U.S. persons with certain foreign boycott activities, and to fulfill its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious economic impact of foreign demand, it is hereby ordered as follows:

Section 1. Notwithstanding the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*), the provisions of that Act, the provisions for administration of that Act, and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12131 of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986, shall, to the extent permitted by law, be incorporated in this order and shall continue in full force and effect.

Sec. 2. All rules and regulations issued or continued in effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, including those published in Title 15, Chapter III, Subchapter C, of the Code of Federal Regulations, Parts 768 to 799 inclusive, and all orders, regulations, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant thereto, shall, until amended or revoked by the Secretary of Commerce, remain in full force and effect, the same as if issued or taken pursuant to this order, except that the provisions of sections 203(b)(2) and 206 of the Act (50 U.S.C. 1702(b)(2) and 1705) shall control over any inconsistent provisions in the regulations. Nothing in this section shall affect the continued applicability of administrative sanctions provided for by the regulations described above.

Sec. 3. Provisions for administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this order also shall constitute authority for the issuance and continuation in full force and effect of all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant thereto, relating to the administration of section 38(e).

Sec. 4. This order shall be effective as of midnight between September 30, 1990, and October 1, 1990, and shall remain in effect until terminated. It is my intention to terminate this order upon the enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act.



THE WHITE HOUSE,
September 30, 1990.

[FR Doc. 90-23478
Filed 10-01-90; 11:07 am]
Billing code 3195-01-M

Reader Aids

Federal Register

Vol. 55, No. 191

Tuesday, October 2, 1990

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FEDERAL REGISTER PAGES AND DATES, OCTOBER

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LIST OF PUBLIC LAWS

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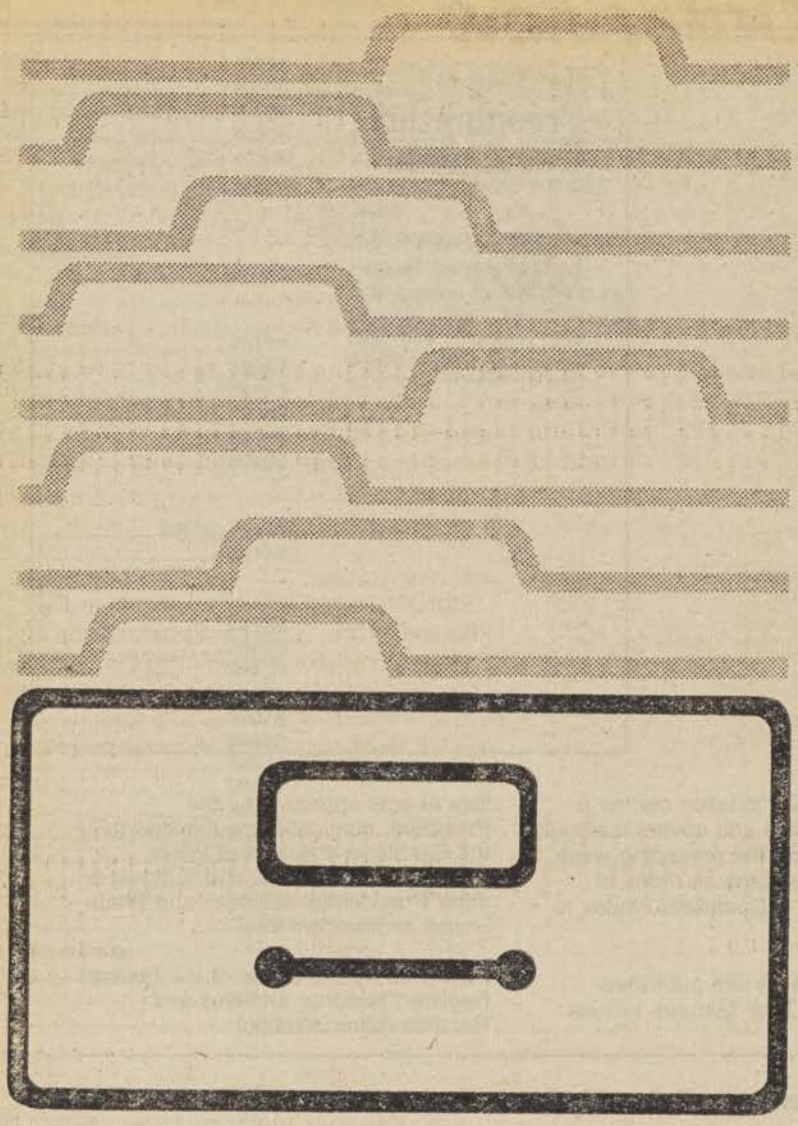
This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 3265/Pub. L. 101-396

Federal Communications Commission Authorization Act of 1990. (Sept. 28, 1990; 104 Stat. 848; 4 pages) Price: $1.00



Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
SUPPLEMENT: Revised January 1, 1990

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

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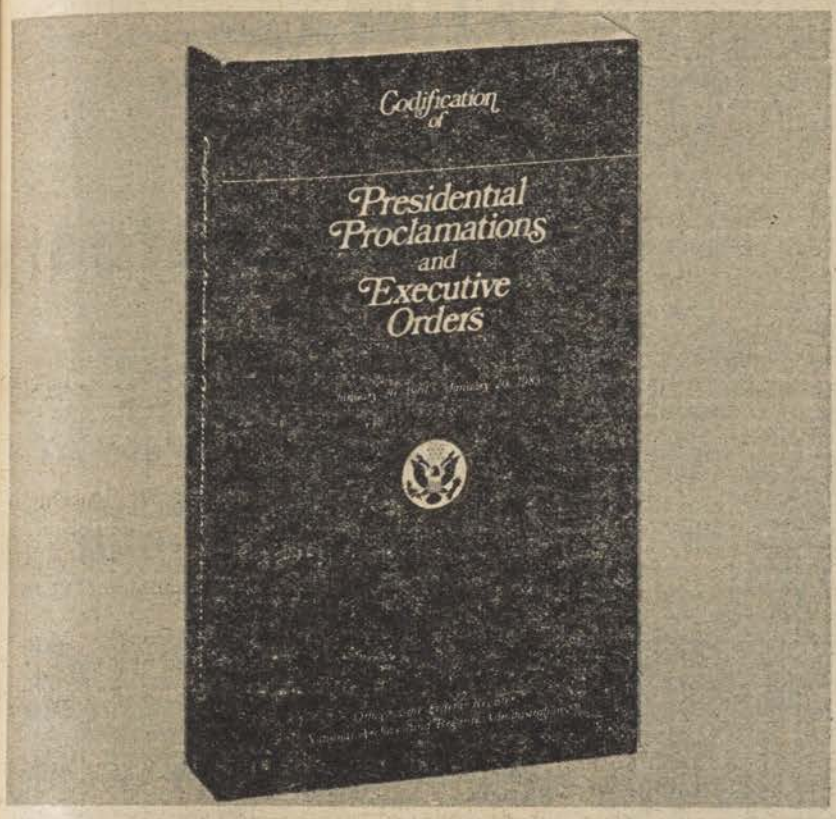

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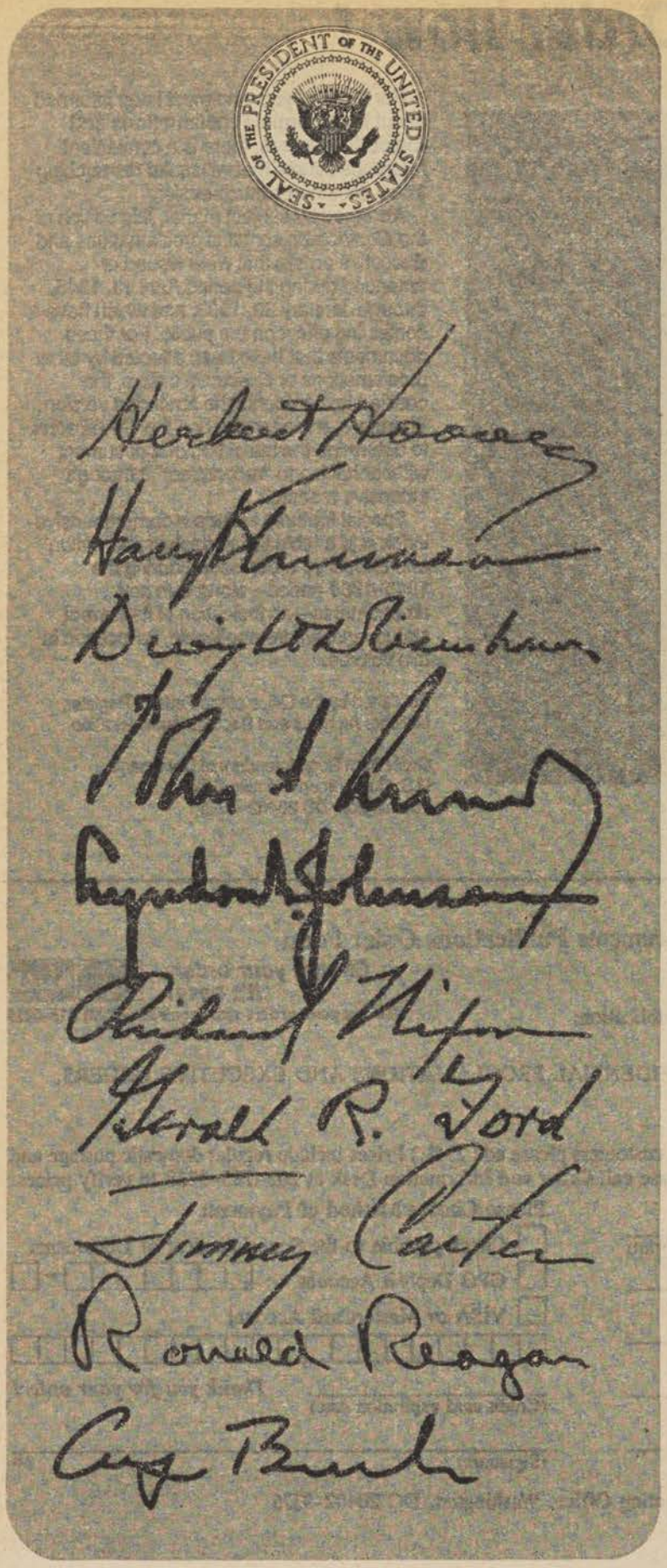

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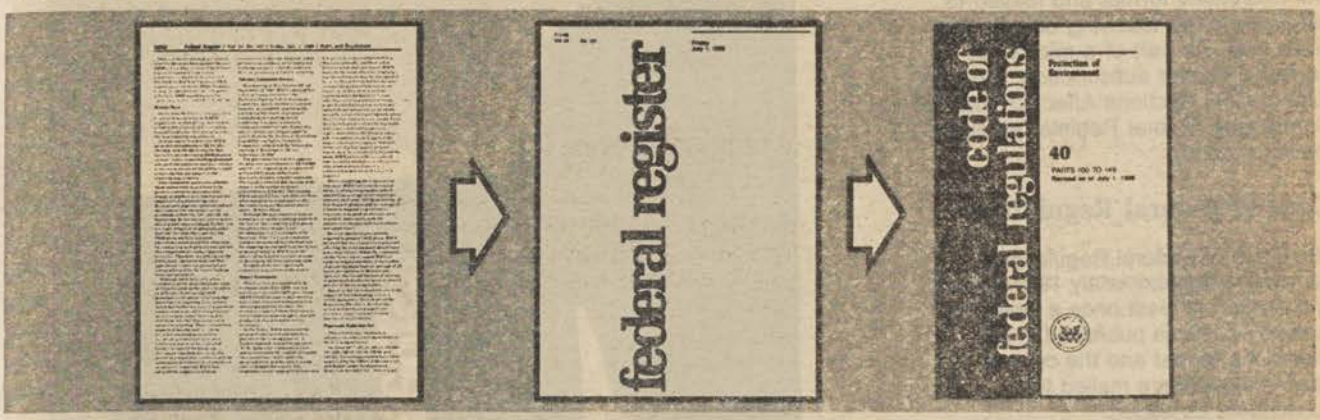

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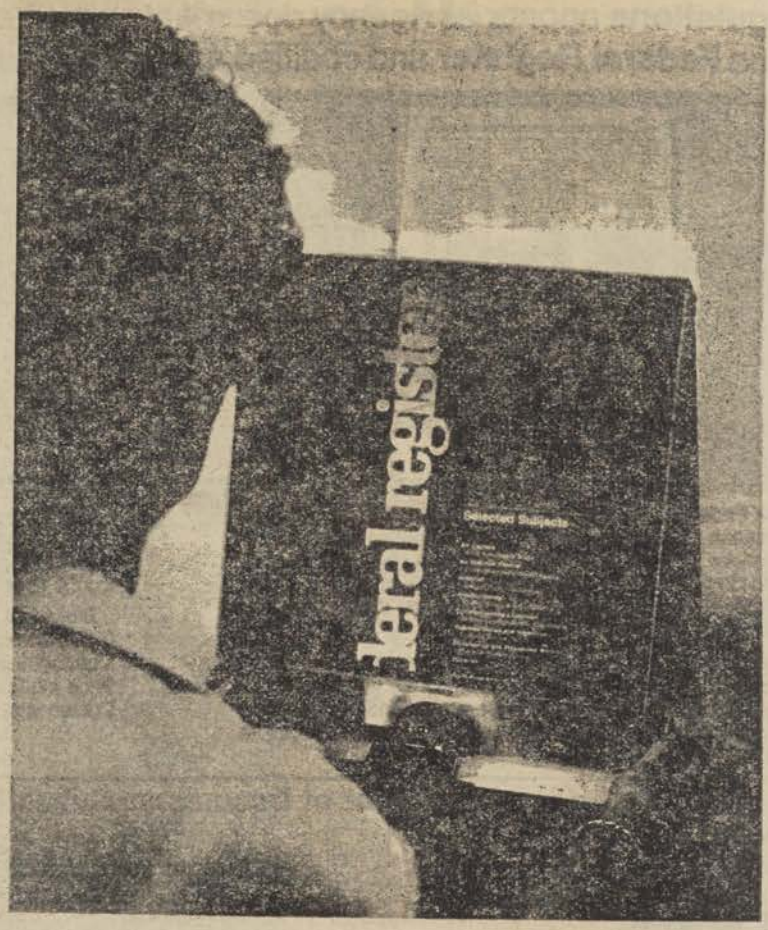

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